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January 31, 2020

MEMORANDUM TO: Christian Marsh
Deputy Assistant Secretary
for Enforcement and Compliance

FROM: James Maeder
Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations

SUBJECT: Decision Memorandum for the Preliminary Results of Antidumping
Duty Administrative Review and New Shipper Review: Multilayered
Wood Flooring from the People's Republic of China; 2017-2018

I. SUMMARY

In response to requests from interested parties, the Department of Commerce (Commerce) is conducting an administrative review and a new shipper review of the antidumping duty (AD) order on multilayered wood flooring (wood flooring) from the People's Republic of China (China) for the period of review (POR) December 1, 2017 through November 30, 2018. This administrative review was initiated on 99 companies, including two mandatory respondents, the Fusong Jinlong Group (Jinlong),¹ and Jiangsu Guyu International Trade Co., Ltd. (Guyu), and the new shipper review covers Muchsee Wood (Chuzhou) Co., Ltd. (Muchsee Wood).

We preliminarily determine that sales of subject merchandise by Jinlong and Guyu have not been made at prices below normal value (NV). We also preliminarily determine that sales of subject merchandise by Muchsee Wood have not been made at prices below NV. In addition, we preliminarily determine that 21 companies had no shipments to the United States during the POR, and that the Jinlong Group, Guyu, Muchsee Wood, and 54 companies are eligible for a separate rate. Finally, we are rescinding the administrative review with respect to Jilin Forest Industry Jinqiao Flooring Group Co., Ltd. (Jinqiao Flooring) and have determined that 18 companies are part of the China-wide entity.

¹ Commerce has previously indicated that Dalian Qianqiu Wooden Product Co., Ltd. (Dalian Qianqiu), Fusong Jinlong Wooden Group Co., Ltd. (Fusong Jinlong), Fusong Jinqiu Wooden Product Co., Ltd. (Fusong Jinqiu), and Fusong Qianqiu Wooden Product Co., Ltd. (Fusong Qianqiu) are collectively known as the "Fusong Jinlong Group." See e.g., *Multilayered Wood Flooring from the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2011-2012*, 79 FR 26712 (May 9, 2014) at n.14. We are addressing the status of these companies in a preliminary affiliation and collapsing analysis memorandum based on information on the record of this administrative review. See the "Affiliation and Single Entity" section of this memorandum.



If these preliminary results are adopted in the final results of these reviews, we will instruct U.S. Customs and Border Protection (CBP) to assess AD duties on all appropriate entries of subject merchandise during the POR. The preliminary rates assigned to each of these companies can be found in the “Preliminary Results of the Administrative Review” and “Preliminary Results of the New Shipper Review” sections of the accompanying *Federal Register* notice.

Interested parties are invited to comment on these preliminary results. We intend to issue the final results no later than 120 days from the date of publication of the accompanying *Federal Register* notice of these preliminary results pursuant to section 751(a)(3)(A) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.213(h), unless this deadline is extended.

II. BACKGROUND

On December 8, 2011, Commerce published the AD *Order* on wood flooring from China.² On December 3, 2018, we published a notice of opportunity for interested parties to request that Commerce conduct an administrative review of the *Order*.³ Between December 20, 2018, and January 3, 2019, we received requests to conduct an administrative review for 99 companies.⁴ Between March 14, 2019 and January 17, 2020, we published the initiation notice and amendments to that notice in the *Federal Register*.⁵ On March 15, 2019, in response to Muchsee Wood’s request, we initiated a new shipper review of the *Order* on wood flooring from China with respect to Muchsee Wood.⁶

From March through June 2019, we received separate rate certifications (SRCs) from 46 companies, separate rate applications (SRAs) from ten companies, and no shipment certifications

² See *Multilayered Wood Flooring from the People’s Republic of China: Notice of Amended Final Affirmative Determination of Sales at Less than Fair Value and Antidumping Duty Order*, 76 FR 76690 (December 8, 2011), as amended in *Multilayered Wood Flooring from the People’s Republic of China: Amended Antidumping and Countervailing Duty Orders*, 77 FR 5484 (February 3, 2012) (collectively, the *Order*).

³ See *Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review*, 83 FR 62293 (December 3, 2018).

⁴ See, e.g., American Manufacturers of Multilayered Wood Flooring’s (the petitioner) Letter, “Multilayered Wood Flooring from the People’s Republic of China: Request for Administrative Review,” dated December 31, 2018 (Petitioner Review Request).

⁵ See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 84 FR 9297 (March 14, 2019) (*First AR Initiation Notice*); see also *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 84 FR 12200 (April 1, 2019) (including various inadvertently-omitted companies in the administrative review); *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 84 FR 18777 (May 2, 2019) (clarifying Armstrong Wood Products (Kunshan) Co., Ltd.’s; Baroque Timber Industries (Zhongshan) Co., Ltd.’s; Dunhua City Jisen Wood Industry Co., Ltd.’s; and Fine Furniture (Shanghai) Limited and Double F Limited’s inclusion in the administrative review and correcting inadvertent company name misspellings); and *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 85 FR 3014 (January 17, 2020) (including Changzhou Hawd Flooring Co., Ltd. in the initiation of the administrative review) (collectively, *AR Initiation Notices*).

⁶ See *Multilayered Wood Flooring from the People’s Republic of China: Initiation of Antidumping Duty New Shipper Review; 2017–2018*, 84 FR 9494 (March 15, 2019) (*NSR Initiation Notice*).

from 26 companies.⁷ We also received timely withdrawal requests from two companies.⁸ During the same time, we issued and received responses to the AD questionnaire from Muchsee Wood in the new shipper review. From June through November 2019, we issued and received responses to supplemental questionnaires from Muchsee Wood.

On May 21, 2019, Commerce selected Jinlong and Guyu as mandatory respondents in this administrative review.⁹ From May through July 2019, we issued and received responses to the AD questionnaire from Jinlong and Guyu. We issued and received responses to supplemental questionnaires from Jinlong and Guyu from July through November 2019, and from various separate rate respondents from April through June 2019.

On June 12, 2019, Jiangsu Senmao Bamboo and Wood Industry Co., Ltd. (Senmao) filed a request for treatment as a voluntary respondent and submitted timely responses to Commerce's AD questionnaire by the due dates specified for the mandatory respondents.¹⁰ On September 26, 2019, we determined that the selection of a voluntary respondent in this administrative review would not be practicable.¹¹

In accordance with 19 CFR 351.408(c), we solicited and received comments from interested parties regarding the selection of surrogate value (SV) data from May through June 2019, in the new shipper review,¹² and from July through August 2019 in the administrative review.¹³

⁷ See, e.g., Power Dekor Group Co., Ltd.'s April 11, 2019 SRC (Power Dekor SRC); Dunhua City Wanrong Wood Industry Co., Ltd.'s April 11, 2019 SRA (Wanrong SRA); and Shanghaifloor Timber (Shanghai) Co., Ltd.'s April 12, 2019 No Shipment Certification (Shanghai NSC).

⁸ See Shenzhenshi Huanwei Woods Co., Ltd.'s (Huanwei Woods') Letter, "Multilayered Wood Flooring from People's Republic of China: Notice of Withdrawal of Counsel and Withdrawal of Request for 2017-2018 Administrative Review," dated May 9, 2019 (Huanwei Woods AR Withdrawal Request); see also Jinqiao Flooring's Letter, "Multilayered Wood Flooring from the People's Republic of China: 7th Administrative Review; Withdrawal of Administrative Review Request," dated June 12, 2019 (Jinqiao Flooring AR Withdrawal Request).

⁹ See Memorandum, "Antidumping Administrative Review of Multilayered Wood Flooring from the People's Republic of China: Respondent Selection," dated May 21, 2019.

¹⁰ See Senmao's Letters, "Multilayered Wood Flooring from the People's Republic of China: Request for Voluntary Respondent Treatment," dated June 12, 2019; "Multilayered Wood Flooring from the People's Republic of China: Section A Questionnaire Response," dated June 12, 2019; and "Multilayered Wood Flooring from the People's Republic of China: Sections C&D Questionnaire Response," dated June 28, 2019.

¹¹ See Memorandum, "Antidumping Duty Administrative Review of Multilayered Wood Flooring from the People's Republic of China: Whether to Select Voluntary Respondent," dated September 26, 2019.

¹² See Commerce's Letter, "Request for Surrogate Value Comments," dated May 16, 2019 (NSR Surrogate Comments Request); see also Muchsee Wood's Letters, "Multilayered Wood Flooring from the People's Republic of China: Surrogate Country Comments," dated May 30, 2019 (Muchsee Wood NSR SC Comments); and "Multilayered Wood Flooring from the People's Republic of China: Surrogate Value Comments," dated June 6, 2019 (Muchsee Wood NSR SV Comments).

¹³ See Commerce Letter, "Request for Surrogate Value Comments," dated July 26, 2019 (AR Surrogate Comments Request); Petitioner's Letter, "Multilayered Wood Flooring from the People's Republic of China: Comments on Surrogate Country Selection," dated August 14, 2019 (Petitioner AR SC Comments); Jinlong's Letter, "Multilayered Wood Flooring from the People's Republic of China -- Surrogate Country Comments," dated August 14, 2019 (Jinlong AR SC Comments); Guyu's Letter, "Multilayered Wood Flooring from the People's Republic of China: Comments on Surrogate Country Selection 2017-2018 Administrative Review," dated August 14, 2019 (Guyu AR SC Comments); Lumber Liquidators Services LLC's Letter, "Multilayered Wood Flooring from the People's Republic of China: Surrogate Country Selection 2017-2018 Administrative Review," dated August 14,

Commerce exercised its discretion to toll all deadlines affected by the partial federal government closure from December 22, 2018, through the resumption of operations on January 29, 2019.¹⁴ Accordingly, the revised, tolled deadline for the preliminary results of this administrative review was October 3, 2019.

On September 20, 2019, we extended the deadline for the preliminary results of the administrative review from October 3, 2019, until January 31, 2020.¹⁵ On October 31, 2019, we aligned the new shipper review of wood flooring from China with the concurrent administrative review of wood flooring from China.¹⁶ On January 22, 2020, we received comments from the petitioner for consideration in the preliminary results.¹⁷ Jinlong filed a response and rebuttal comments to the petitioner's comments on January 24 and 28, 2020, respectively.¹⁸

III. PERIOD OF REVIEW

The POR is December 1, 2017 through November 30, 2018.

IV. SCOPE OF THE ORDER

Multilayered wood flooring is composed of an assembly of two or more layers or plies of wood veneer(s)¹⁹ in combination with a core.²⁰ The several layers, along with the core, are glued or otherwise bonded together to form a final assembled product. Multilayered wood flooring is often referred to by other terms, *e.g.*, “engineered wood flooring” or “plywood flooring.” Regardless of the particular terminology, all products that meet the description set forth herein are intended for inclusion within the definition of subject merchandise.

All multilayered wood flooring is included within the definition of subject merchandise, without regard to: dimension (overall thickness, thickness of face ply, thickness of back ply, thickness of

2019 (Lumber Liquidators AR SC Comments); Petitioner's Letter, “Multilayered Wood Flooring from the People's Republic of China: Initial Comments on Surrogate Values,” dated August 23, 2019 (Petitioner AR SV Comments); Jinlong's Letter, “Multilayered Wood Flooring from the People's Republic of China – Primary Surrogate Value Submission,” dated August 23, 2019 (Jinlong AR SV Comments); and Guyu's Letter, “Multilayered Wood Flooring from the People's Republic of China: Submission of Surrogate Values,” dated August 23, 2019 (Guyu AR SV Comments).

¹⁴ See Memorandum, “December Order Deadlines Affected by the Partial Shutdown of the Federal Government,” dated August 8, 2019. All deadlines in the administrative review were extended by 31 days.

¹⁵ See Memorandum, “Multilayered Wood Flooring from the People's Republic of China: Extension of Deadline for Preliminary Results of Antidumping Duty Administrative Review; 2017-2018,” dated September 20, 2019.

¹⁶ See Memorandum, “Alignment of New Shipper Review of the Antidumping Duty Order on Multilayered Wood Flooring from the People's Republic of China with the Concurrent Administrative Review of Multilayered Wood Flooring from the People's Republic of China,” dated October 31, 2019.

¹⁷ See Petitioner's Letter, “Multilayered Wood Flooring from the People's Republic of China: Petitioner's Pre-Preliminary Results Comments,” dated January 22, 2020 (Petitioner Pre-Preliminary Comments).

¹⁸ See Jinlong's Letters, “Multilayered Wood Flooring from the People's Republic of China: Response to Petitioner's Pre-Preliminary Comments,” dated January 24, 2020; and “Multilayered Wood Flooring from the People's Republic of China: Rebuttal to Petitioner's Pre-Preliminary Results Comments,” dated January 28, 2020.

¹⁹ A “veneer” is a thin slice of wood, rotary cut, sliced or sawed from a log, bolt or flitch. Veneer is referred to as a ply when assembled.

²⁰ Commerce Interpretive Note: Commerce interprets this language to refer to wood flooring products with a minimum of three layers.

core, and thickness of inner plies; width; and length); wood species used for the face, back and inner veneers; core composition; and face grade. Multilayered wood flooring included within the definition of subject merchandise may be unfinished (*i.e.*, without a finally finished surface to protect the face veneer from wear and tear) or “prefinished” (*i.e.*, a coating applied to the face veneer, including, but not exclusively, oil or oil-modified or water-based polyurethanes, ultra-violet light cured polyurethanes, wax, epoxy-ester finishes, moisture-cured urethanes and acid-curing formaldehyde finishes). The veneers may be also soaked in an acrylic-impregnated finish. All multilayered wood flooring is included within the definition of subject merchandise regardless of whether the face (or back) of the product is smooth, wire brushed, distressed by any method or multiple methods, or hand-scraped. In addition, all multilayered wood flooring is included within the definition of subject merchandise regardless of whether or not it is manufactured with any interlocking or connecting mechanism (for example, tongue-and-groove construction or locking joints). All multilayered wood flooring is included within the definition of the subject merchandise regardless of whether the product meets a particular industry or similar standard.

The core of multilayered wood flooring may be composed of a range of materials, including but not limited to hardwood or softwood veneer, particleboard, medium-density fiberboard, high-density fiberboard (HDF), stone and/or plastic composite, or strips of lumber placed edge-to-edge.

Multilayered wood flooring products generally, but not exclusively, may be in the form of a strip, plank, or other geometrical patterns (*e.g.*, circular, hexagonal). All multilayered wood flooring products are included within this definition regardless of the actual or nominal dimensions or form of the product. Specifically excluded from the scope are cork flooring and bamboo flooring, regardless of whether any of the sub-surface layers of either flooring are made from wood. Also excluded is laminate flooring. Laminate flooring consists of a top wear layer sheet not made of wood, a decorative paper layer, a core-layer of HDF, and a stabilizing bottom layer.

Imports of the subject merchandise are provided for under the following subheadings of the Harmonized Tariff Schedule of the United States (HTSUS)²¹: 4412.31.0520; 4412.31.0540; 4412.31.0560; 4412.31.0620; 4412.31.0640; 4412.31.0660; 4412.31.2510; 4412.31.2520; 4412.31.2610; 4412.31.2620; 4412.31.3175; 4412.31.4040; 4412.31.4050; 4412.31.4060; 4412.31.4070; 4412.31.4075; 4412.31.4080; 4412.31.4140; 4412.31.4160; 4412.31.4175; 4412.31.5125; 4412.31.5135; 4412.31.5155; 4412.31.5165; 4412.31.5175; 4412.31.5225; 4412.31.6000; 4412.31.9100; 4412.32.0520; 4412.32.0540; 4412.32.0560; 4412.32.0565; 4412.32.0570; 4412.32.0640; 4412.32.0665; 4412.32.2510; 4412.32.2520; 4412.32.2525; 4412.32.2530; 4412.32.2610; 4412.32.2625; 4412.32.3125; 4412.32.3135; 4412.32.3155; 4412.32.3165; 4412.32.3175; 4412.32.3185; 4412.32.3225; 4412.32.5600; 4412.32.5700;

²¹ On October 31, 2018, we added the following HTS numbers to update the ACE Case Reference File: 4412.33.0640, 4412.33.0665, 4412.33.0670, 4412.33.2625, 4412.33.2630, 4412.33.3225, 4412.33.3235, 4412.33.3255, 4412.33.3275, 4412.33.3285, 4412.33.5700, 4412.34.2600, 4412.34.3225, 4412.34.3235, 4412.34.3255, 4412.34.3275, 4412.34.3285, 4412.34.5700, 4418.74.2000, 4412.74.9000, 4418.75.4000, and 4418.75.7000. See Memorandum “Multilayered Wood Flooring from the People’s Republic of China (A-570-970): Request from Customs and Border Protection to Update the ACE AD/CVD Case Reference File,” dated October 31, 2018.

4412.39.1000; 4412.39.3000; 4412.39.4011; 4412.39.4012; 4412.39.4019; 4412.39.4031; 4412.39.4032; 4412.39.4039; 4412.39.4051; 4412.39.4052; 4412.39.4059; 4412.39.4061; 4412.39.4062; 4412.39.4069; 4412.39.5010; 4412.39.5030; 4412.39.5050; 4412.94.1030; 4412.94.1050; 4412.94.3105; 4412.94.3111; 4412.94.3121; 4412.94.3131; 4412.94.3141; 4412.94.3160; 4412.94.3171; 4412.94.4100; 4412.94.5100; 4412.94.6000; 4412.94.7000; 4412.94.8000; 4412.94.9000; 4412.94.9500; 4412.99.0600; 4412.99.1020; 4412.99.1030; 4412.99.1040; 4412.99.3110; 4412.99.3120; 4412.99.3130; 4412.99.3140; 4412.99.3150; 4412.99.3160; 4412.99.3170; 4412.99.4100; 4412.99.5100; 4412.99.5105; 4412.99.5115; 4412.99.5710; 4412.99.6000; 4412.99.7000; 4412.99.8000; 4412.99.9000; 4412.99.9500; 4418.71.2000; 4418.71.9000; 4418.72.2000; 4418.72.9500; 4418.74.2000; 4418.74.9000; 4418.75.4000; 4418.75.7000; 4418.79.0100; and 9801.00.2500.

While HTSUS subheadings are provided for convenience and customs purposes, the written description of the subject merchandise is dispositive.

V. SELECTION OF RESPONDENTS

Section 777A(c)(1) of the Act directs Commerce to calculate an individual weighted-average dumping margin for each known exporter and producer of the subject merchandise. However, section 777A(c)(2) of the Act gives Commerce discretion to limit its examination to a reasonable number of exporters or producers if it is not practicable to make individual weighted-average dumping margin determinations because of the large number of exporters and producers involved in the review.

In the *AR Initiation Notices*, we notified the public that, in the event we limited the number of respondents for individual examination, we intended to select respondents based on CBP data for U.S. imports of subject merchandise during the POR.²² On March 14, 2019, we placed CBP data for imports made during the POR under the HTSUS numbers listed in the scope of the *Order*, on the record of this administrative review, and requested comments on the data for use in respondent selection.²³ We subsequently received timely comments on the CBP data and respondent selection from various parties.²⁴

On May 21, 2019, we issued the respondent selection memorandum which explained that, pursuant to 777A(c)(2) of the Act, because of the large number of exporters and producers involved in the administrative review and given our resource constraints, it was not practicable to examine all companies under review individually.²⁵ Accordingly, we determined that we could only reasonably examine two exporters. Pursuant to section 777A(c)(2)(B) of the Act, we selected Jinlong and Guyu as the mandatory respondents in this administrative review because, based on the CBP entry data and certified quantity and value information submitted by certain

²² See *AR Initiation Notices*.

²³ See Memorandum, "Release of Customs and Border Protection Data," dated March 14, 2019.

²⁴ See, e.g., Jiaying Hengtong Wood Co., Ltd.'s Letter, "Multilayered Wood Flooring from the People's Republic of China: Comments on Respondent Selection," dated March 21, 2019 (Hengtong CBP Data Comments); and Petitioner's Letter, "Multilayered Wood Flooring from the People's Republic of China: Comments on CBP Data and Respondent Selection," dated March 21, 2019.

²⁵ See Respondent Selection Memorandum.

interested parties,²⁶ they were the two largest exporters of subject merchandise by volume during the POR.²⁷

VI. PARTIAL RESCISSION OF REVIEW

As noted in the *Federal Register* notice, two companies submitted timely requests to withdraw from this administrative review: Jinqiao Flooring²⁸ and Huanwei Woods.²⁹ Pursuant to 19 CFR 351.213(d)(1), Commerce will rescind an administrative review, in whole or in part, if the parties that requested a review withdraw their requests within 90 days of the date of publication of the notice of initiation. No other parties requested a review of Jinqiao Flooring; however, the petitioner requested a review of Huanwei Woods and did not withdraw its request for review of this company.³⁰ Accordingly, Commerce is rescinding this review, in part, only with respect to Jinqiao Flooring.

VII. PRELIMINARY DETERMINATION OF NO SHIPMENTS

In the *AR Initiation Notices*, we instructed producers or exporters under review that had no exports, sales, or entries during the POR to notify Commerce within 30 days of publication of each notice.³¹ We received timely no-shipment certifications from the following companies: Anhui Boya Bamboo & Wood Products Co., Ltd. (Anhui Boya); Anhui Yaolong Bamboo & Wood Products Co. Ltd. (Anhui Yaolong); Armstrong Wood Products (Kunshan) Co., Ltd. (Armstrong Kunshan); Baroque Timber Industries (Zhongshan) Co., Ltd. (Baroque Timber); Benxi Flooring Factory (General Partnership) (Benxi Flooring); Changzhou Hawd Flooring Co., Ltd. (Changzhou Hawd); Dalian Jaenmaken Wood Industry Co., Ltd. (Jaenmaken); Dunhua City Jisen Wood Industry Co., Ltd. (Jisen); Fine Furniture (Fine Furniture (Shanghai) Limited and Double F Limited) (Fine Furniture); Guangzhou Homebon Timber Manufacturing Co., Ltd. (Homebon); Guangzhou Panyu Kangda Board Co., Ltd. (Guangzhou Panyu); Hangzhou Zhengtian Industrial Co., Ltd. (Hangzhou Zhengtian); Hunchun Forest Wolf Wooden Industry Co., Ltd. (Hunchun); Huzhou Jesonwood Co., Ltd. (Jesonwood); Innomaster Home (Zhongshan) Co., Ltd. (Innomaster); Jiashan On-Line Lumber Co., Ltd. (Jiashan On-Line); Kingman Floors Co., Ltd. (Kingman); Linyi Anying Wood Co., Ltd. (Anying); Shandong Longteng Wood Co., Ltd. (Shandong); Shanghaifloor Timber (Shanghai) Co., Ltd. (Shanghaifloor); Xuzhou Antop International Trade Co., Ltd. (Xuzhou Antop); Yingyi-Nature (Kunshan) Wood Industry Co., Ltd. (Yingyi-Nature); Zhejiang Biyork Wood Co., Ltd. (Biyork); Zhejiang Jiechen Wood Industry Co., Ltd. (Jiechen); Zhejiang Shuimojiangnan New Material Technology Co., Ltd. (Shuimojiangnan); and Zhejiang Simite Wooden Co., Ltd. (Simite).³² Additionally, Jiangu

²⁶ See, e.g., Hengtong CBP Data Comments.

²⁷ See Respondent Selection Memorandum at Attachment I.

²⁸ See Jinqiao Flooring AR Withdrawal Request.

²⁹ See Huanwei Woods AR Withdrawal Request.

³⁰ See Petitioner Review Request.

³¹ See *AR Initiation Notices*.

³² See Anhui Boya April 11, 2019, No Shipments Certification; Anhui Yaolong April 11, 2019, No Shipments Certification; Armstrong Kunshan April 8, 2019, No Shipments Certification; Baroque Timber June 24, 2019, No Shipments Certification; Benxi Flooring April 11, 2019, No Shipments Certification; Changzhou Hawd April 12, 2019, No Shipments Certification; Jaenmaken April 15, 2019, No Shipments Certification; Jisen April 11, 2019, No

Yuhui International Trade Co., Ltd. (Jiangsu Yuhui) filed a timely SRC,³³ but subsequently indicated that, upon further review, it had no shipments or entries of subject merchandise during the POR.³⁴

We instructed CBP to report any information contrary to the above-referenced no shipments claims and placed this information on the record, providing parties the opportunity to file factual information to rebut, clarify, or correct the contrary information, in accordance with 19 CFR 351.301(c)(4).³⁵ Specifically, the information received from CBP indicates that certain companies made an entry of subject merchandise during the POR, despite indicating otherwise.

Yingyi-Nature submitted a no-shipment certification that was contradicted by CBP information placed on the record.³⁶ Yingyi-Nature explained, and provided supporting documentation demonstrating, that the shipment at issue was sent to its U.S. affiliate as a sample to be displayed in the affiliate's facilities³⁷ and confirmed that this single shipment was not resold to an unaffiliated U.S. customer.³⁸ Therefore, we preliminarily find that Yingyi-Nature did not have any reviewable sales of subject merchandise to the United States during the POR.

Changzhou Hawd also submitted a no-shipment certification that was contradicted by CBP information placed on the record.³⁹ Changzhou Hawd explained that the shipment at issue was a

Shipments Certification; Fine Furniture April 15, 2019, No Shipments Certification; Homebon April 11, 2019, No Shipments Certification; Guangzhou Panyu April 11, 2019, No Shipments Certification; Hangzhou Zhengtian April 15, 2019, No Shipments Certification; Hunchun April 11, 2019, No Shipments Certification; Jesonwood April 11, 2019, No Shipments Certification; Innomaster April 11, 2019, No Shipments Certification; Jiashan On-Line April 11, 2019, No Shipments Certification; Kingman April 11, 2019, No Shipments Certification; Anying March 21, 2019, No Shipments Certification; Shandong April 11, 2019, No Shipments Certification; Shanghaifloor April 12, 2019, No Shipments Certification; Xuzhou Antop April 11, 2019, No Shipments Certification; Yingyi-Nature April 12, 2019, No Shipments Certification; Biyork April 15, 2019, No Shipments Certification; Jiechen April 15, 2019, No Shipments Certification; Shuimojiangnan April 12, 2019, No Shipments Certification; and Simite April 15, 2019, No Shipments Certification. Changzhou Hawd submitted an additional timely no shipments certification for the POR on January 23, 2020, which was prompted by its inclusion in this administrative review. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 85 FR 3014 (January 17, 2020).

³³ See Jiangsu Yuhui April 11, 2019, SRC.

³⁴ See Jiangsu Yuhui's Letter, "Multilayered Wood Flooring from People's Republic of China: Separate Rate Certification Supplemental Questionnaire," dated May 15, 2019.

³⁵ See Memoranda, "No Shipments Inquiry," dated May 16, 2019 (Barcode: 3834965-01); "No Shipments Inquiry," dated June 25, 2019 (Barcode: 3853323-01); "No Shipments Inquiry," dated September 26, 2019 (Barcode: 3894434-01); "Certain multilayered wood flooring from the People's Republic of China (A-570-970): No shipment inquiry with respect to the companies below during the period 12/01/2017 through 11/30/2018," dated October 17, 2019 (Barcode: 3834965-01); "No Shipments Certifications and CBP Information," dated October 18, 2019 (Barcode: 3901168-01); and "No Shipments Inquiry for Changzhou Hawd Flooring Co., Ltd.," dated January 15, 2020 (Barcode: 3931800-01).

³⁶ See Memorandum, "No Shipments Inquiry," dated May 16, 2019 (Barcode: 3834965-01).

³⁷ See Yingyi-Nature's Letter, "Multilayered Wood Flooring from the People's Republic of China: Clarification Letter and Separate Rate Certification," dated September 24, 2019.

³⁸ See Yingyi-Nature's Letter, "Multilayered Wood Flooring from the People's Republic of China: Clarification and Confirmation of No Shipments To Unaffiliated U.S. Customers," dated October 11, 2019.

³⁹ See Memorandum, "No Shipments Inquiry for Changzhou Hawd Flooring Co., Ltd.," dated January 15, 2020 (Barcode: 3931800-01).

sample sale of an “exceptionally small” quantity, rather than a commercial sale.⁴⁰ Additionally, the company provided documentation that supported both the CBP information and Changzhou Hawd’s explanation.⁴¹ Therefore, we preliminarily find that Changzhou Hawd did not have any reviewable sales of subject merchandise to the United States during the POR.

Anhui Boya’s no-shipment certification was also contradicted by the CBP data.⁴² Anhui Boya timely filed comments on the CBP data placed on the record by Commerce.⁴³ Anhui Boya’s complete explanation for the discrepancy is business proprietary.⁴⁴ Commerce permitted Anhui Boya to submit an SRC in the event that Commerce determined that the sales at issue constituted sales of subject merchandise during the POR.⁴⁵ However, Anhui Boya failed to submit an SRC by Commerce’s extended deadline. Further, Anhui Boya did not provide sufficient evidence demonstrating that the sales at issue did not constitute sales of subject merchandise during the POR.⁴⁶ As Anhui Boya failed to establish its eligibility for a separate by submitting an SRA or SRC, we preliminarily determine that Anhui Boya is part of the China-wide entity.

Further, we received information from CBP contradicting the no-shipment claims of Biyork, Homebon, Jaenmaken, Jiechen, and Simite;⁴⁷ however, these companies offered no information to rebut the discrepant CBP information, nor did they demonstrate separate rate eligibility by filing an SRA or SRC. Therefore, we preliminarily determine that these companies had shipments of subject merchandise during the POR and that they are part of the China-wide entity. Our preliminary determination with respect to the China-wide entity is discussed further below.

With respect to the 21 companies for which there is no contrary record information, we preliminarily determine that these companies did not have shipments to the United States during the POR.⁴⁸ Consistent with our practice in non-market economy (NME) cases, we are not rescinding the review of these companies, but intend to complete the review and issue appropriate instructions to CBP based on the final results.⁴⁹

VIII. *BONA FIDE SALE ANALYSIS*

Pursuant to section 751(a)(2)(B)(iv) of the Act, any weighted-average dumping margin

⁴⁰ See Changzhou Hawd’s Letter, “Multilayered Wood Flooring from the People’s Republic of China: Comments on No Shipments Inquiry,” dated January 22, 2020.

⁴¹ *Id.* at Exhibit 1.

⁴² See Memorandum, “No Shipments Inquiry,” dated June 25, 2019 (Barcode: 3853323-01).

⁴³ See Anhui Boya’s Letter, “Multilayered Wood Flooring from People’s Republic Of China: Response to No Shipments Inquiry,” dated July 2, 2019.

⁴⁴ *Id.*

⁴⁵ See Commerce Letter, “Response to No Shipment Inquiry,” dated July 18, 2019.

⁴⁶ See Anhui Boya’s Letter, “Multilayered Wood Flooring from People’s Republic Of China: Response to the Supplemental Questionnaire,” dated August 14, 2019.

⁴⁷ See Memoranda, “No Shipments Inquiry,” dated June 25, 2019 (Barcode: 3853323-01); and “No Shipments Certifications and CBP Information,” dated October 18, 2019 (Barcode: 3901168-01).

⁴⁸ See the Appendix and the accompanying *Federal Register* notice.

⁴⁹ See *Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties*, 76 FR 65694, 65694-95 (October 24, 2011).

determined in a new shipper review must be based solely on *bona fide* sales during the POR.⁵⁰ Where a review is based on a single sale, exclusion of that sale as non *bona fide* necessarily must end the review.⁵¹ As such, and consistent with Commerce’s practice, we examined the *bona fides* of Muchsee Wood’s sale in this new shipper review.⁵² In evaluating whether a sale in a new shipper review is commercially reasonable or typical of normal business practices and, therefore, *bona fide*, Commerce considers, *inter alia*, such factors as: (a) the timing of the sale; (b) the price and quantity; (c) the expenses arising from the transaction; (d) whether the goods were resold at a profit; and (e) whether the transaction was made on an arm’s-length basis.⁵³ Accordingly, Commerce considers a number of factors in its *bona fides* analysis, “all of which may speak to the commercial realities surrounding an alleged sale of subject merchandise.”⁵⁴

In *TTPC*, the Court of International Trade (CIT) affirmed Commerce’s decision that any factor which indicates that the sale under consideration is not likely to be typical of those which the producer will make in the future is relevant, and found that the weight given to each factor investigated will depend on the circumstances surrounding the sale.⁵⁵ Finally, in *New Donghua*, the CIT affirmed Commerce’s practice of evaluating the circumstances surrounding a sale in a new shipper review so that a respondent does not unfairly benefit from an atypical sale and obtain a lower dumping margin than the producer’s usual commercial practice would dictate.⁵⁶ Where Commerce finds that a sale is not *bona fide*, Commerce may exclude the sale from its export price calculations.⁵⁷

Based on our analysis of the factors described above and as detailed in our *Bona Fide Sale Memorandum*, we preliminarily determine that Muchsee Wood’s sale to the United States is a *bona fide* transaction.⁵⁸ Moreover, based on this finding, the company’s responses to our questionnaires, and its eligibility for a separate rate (*see* the “Separate Rates” section below), we preliminarily determine that Muchsee Wood qualifies as a new shipper company during this POR.

⁵⁰ The Trade Facilitation and Trade Enforcement Act of 2015, Pub. Law 114-125 (February 24, 2016), made amendments to section 751(a)(2)(B) of the Act. These amendments apply to this determination.

⁵¹ *See Tianjin Tiangcheng Pharmaceutical Co., Ltd. v. United States*, 366 F. Supp. 2d 1246, 1249-50 (CIT 2005) (*TTPC*).

⁵² *See, e.g., Honey from the People’s Republic of China: Rescission and Final Results of Antidumping Duty New Shipper Reviews*, 71 FR 58579 (October 4, 2006), and accompanying Issues and Decision Memorandum (IDM) at Comment 1b.

⁵³ *See* sections 751(a)(2)(B)(iv)(I) – (VII) of the Act; *see also TTPC*, 366 F. Supp. 2d 1246, 1249-50.

⁵⁴ *See, e.g., Hebei New Donghua Amino Acid Co., Ltd. v. United States*, 374 F. Supp. 2d 1333, 1342 (CIT 2005) (*New Donghua*) (citing *Fresh Garlic from the People’s Republic of China: Final Results of Antidumping Administrative Review and Rescission of New Shipper Review*, 67 FR 11283 (March 13, 2002), and accompanying IDM: New Shipper Review of Clipper Manufacturing Ltd.).

⁵⁵ *See TTPC*, 366 F. Supp. 2d at 1250 and 1263.

⁵⁶ *See New Donghua*, 374 F. Supp. 2d at 1344.

⁵⁷ *See TTPC*, 366 F. Supp. 2d at 1249.

⁵⁸ *See* Memorandum, “Antidumping Duty New Shipper Review of Multilayered Wood Flooring from the People’s Republic of China: *Bona Fide* Sale Analysis for Muchsee Wood (Chuzhou) Co., Ltd.,” dated concurrently with this memorandum (*Bona Fide* Sale Memorandum).

IX. DISCUSSION OF THE METHODOLOGY

A. Non-Market Economy Country Status

Commerce considers China to be an NME country.⁵⁹ In accordance with section 771(18)(C)(i) of the Act, any determination that a foreign country is an NME country shall remain in effect until revoked by Commerce. Therefore, we continue to treat China as an NME country for purposes of these preliminary results.

B. Separate Rate Determinations

Pursuant to section 771(18)(C) of the Act, in proceedings involving NME countries, Commerce maintains the rebuttable presumption that all companies within the country are subject to government control and, thus, should be assessed a single antidumping duty rate.⁶⁰ It is Commerce's policy to assign all exporters of the merchandise subject to review in an NME proceeding a single rate unless an exporter can affirmatively demonstrate an absence of government control, both in law (*de jure*) and in fact (*de facto*), with respect to exports. To establish whether a company is sufficiently independent to be entitled to a separate, company-specific rate, Commerce analyzes each exporting entity in an NME proceeding under the test established in *Sparklers*,⁶¹ as amplified by *Silicon Carbide*,⁶² and further refined by *Diamond Sawblades*.⁶³ However, if Commerce determines that a company is wholly foreign-owned, then an analysis of the *de jure* and *de facto* criteria is not necessary to determine whether it is

⁵⁹ See *Antidumping Duty Investigation of Certain Aluminum Foil from the People's Republic of China: Affirmative Preliminary Determination of Sales at Less-Than-Fair Value and Postponement of Final Determination*, 82 FR 50858, 50861 (November 2, 2017) (citing Memorandum, "China's Status as a Non-Market Economy," dated October 26, 2017), unchanged in *Certain Aluminum Foil from the People's Republic of China: Final Determination of Sales at Less Than Fair Value*, 83 FR 9282 (March 5, 2018).

⁶⁰ See Policy Bulletin 05.1: Separate-Rates Practice and Application of Combination Rates in Antidumping Investigations involving Non-Market Economy Countries, available at <http://ia.ita.doc.gov/policy/bull05-1.pdf>; see also *Notice of Final Determination of Sales at Less Than Fair Value, and Affirmative Critical Circumstances, In Part: Certain Lined Paper Products from the People's Republic of China*, 71 FR 53079, 53082 (September 8, 2006); *Final Determination of Sales at Less Than Fair Value and Final Partial Affirmative Determination of Critical Circumstances: Diamond Sawblades and Parts Thereof from the People's Republic of China*, 71 FR 29303, 29307 (May 22, 2006) (*Diamond Sawblades I*).

⁶¹ See *Final Determination of Sales at Less Than Fair Value: Sparklers from the People's Republic of China*, 56 FR 20588 (May 6, 1991) (*Sparklers*).

⁶² See *Notice of Final Determination of Sales at Less Than Fair Value: Silicon Carbide from the People's Republic of China*, 59 FR 22585 (May 2, 1994) (*Silicon Carbide*).

⁶³ See Final Results of Redetermination Pursuant to Remand Order for Diamond Sawblades and Parts Thereof from the People's Republic of China (May 6, 2013) in *Advanced Technology & Materials Co., Ltd. v. United States*, 885 F. Supp. 2d 1343 (CIT 2012), sustained, *Advanced Technology & Materials Co. v. United States*, 938 F. Supp. 2d 1342 (CIT 2013), aff'd, Case No. 2014-1154 (Fed. Cir. 2014) (*Diamond Sawblades*). This remand redetermination is on the Enforcement and Compliance website at <http://enforcement.trade.gov/remands/12-147.pdf>; see also *Diamond Sawblades and Parts Thereof from the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review; 2011-2012*, 78 FR 77098 (December 20, 2013) and accompanying Preliminary Decision Memorandum (PDM) at 7, unchanged in *Diamond Sawblades and Parts Thereof from the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2011-2012*, 79 FR 35723 (June 24, 2014) and accompanying IDM at Comment 1.

independent from government control.⁶⁴

In order to demonstrate separate rate status eligibility, Commerce normally requires entities for whom a review was requested and who were assigned a separate rate in a previous segment of this proceeding, to submit an SRC stating that they continue to meet the criteria for obtaining a separate rate.⁶⁵ For entities that were not assigned a separate rate in a previous segment of a proceeding, to demonstrate eligibility, Commerce requires an SRA.⁶⁶

As noted, 46 companies filed SRCs, and ten companies⁶⁷ submitted SRAs in this review.⁶⁸ We discuss our analysis with respect to the mandatory respondents and separate rate applicants below.

1. Wholly Foreign-Owned Separate Rate Applicants

Lauzon Distinctive Hardwood Flooring, Inc. (Lauzon) and Omni Arbor Solution Co., Ltd. (Omni) reported being wholly foreign-owned and located in a market-economy (ME) country.⁶⁹ Therefore, as there is no evidence of Chinese ownership of these companies and thus control of the Chinese government, further analysis of the *de jure* and *de facto* criteria is not necessary to determine whether these companies are independent from government control of their export activities.⁷⁰ Accordingly, we have preliminarily granted a separate rate to Lauzon to Omni.⁷¹

⁶⁴ See, e.g., *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from the People's Republic of China: Final Results of the 2011-2012 Antidumping Duty Administrative Review and New Shipper Reviews*, 79 FR 4327 (January 27, 2014); and *Final Results of Antidumping Duty Administrative Review: Petroleum Wax Candles from the People's Republic of China*, 72 FR 52355, 52356 (September 13, 2007).

⁶⁵ See *AR Initiation Notices*.

⁶⁶ *Id.*

⁶⁷ See Dalian Deerfu Wooden Product Co., Ltd. April 11, 2019, Separate Rate Application (Deerfu SRA); Dalian Shengyu Science and Technology Development Co., Ltd. April 15, 2019, Separate Rate Application (Dalian Shengyu SRA); Dun Hua Sen Tai Wood Co., Ltd. April 22, 2019, Separate Rate Application (Dun Hua Sen Tai SRA); Huzhou Chenghang Wood Co., Ltd. April 15, 2019, Separate Rate Application (Chenghang SRA); Jinqiao Flooring April 23, 2019, Separate Rate Application (Jinqiao Flooring SRA); Lauzon Distinctive Hardwood Flooring, Inc. April 15, 2019, Separate Rate Application (Lauzon SRA); Omni Arbor Solution Co., Ltd. April 15, 2019, Separate Rate Application (Omni SRA); Scholar Home April 15, 2019, Separate Rate Application (Scholar Home SRA); Yekalon Industry, Inc. April 19, 2019, Separate Rate Application (Yekalon SRA); and Wanrong SRA (collectively, the 2017-2018 SRAs).

⁶⁸ For a complete list of companies for which we preliminarily found demonstrated separate rate status, including those that filed SRCs, see the Appendix.

⁶⁹ See Lauzon SRA and Omni SRA.

⁷⁰ See, e.g., *Final Results of Antidumping Duty Administrative Review: Petroleum Wax Candles from the People's Republic of China*, 72 FR 52355, 52356 (September 13, 2007); *Brake Rotors from the People's Republic of China: Preliminary Results and Partial Rescission of the Fourth New Shipper Review and Rescission of the Third Antidumping Duty Administrative Review*, 66 FR 1303, 1306 (January 8, 2001), unchanged in *Brake Rotors from the People's Republic of China: Final Results and Partial Rescission of Fourth New Shipper Review and Rescission of Third Antidumping Duty Administrative Review*, 66 FR 27063 (May 16, 2001); *Notice of Final Determination of Sales at Less Than Fair Value: Creatine Monohydrate from the People's Republic of China*, 64 FR 71104, 71104-05 (December 20, 1999).

⁷¹ See the accompanying *Federal Register* notice.

2. Jinlong, Guyu, Muchsee Wood, and Chinese-Owned Separate Rate Applicants

Jinlong, Guyu, Muchsee Wood, and the remaining separate rate applicants reported being either Chinese-foreign joint venture companies or wholly Chinese-owned companies.⁷² In accordance with our practice, we analyzed whether these companies demonstrated the absence of *de jure* and *de facto* governmental control over their export activities.

a. Absence of *De Jure* Control

Commerce considers the following *de jure* criteria in determining whether an individual company may be granted a separate rate: (1) an absence of restrictive stipulations associated with an individual exporter's business and export licenses; (2) any legislative enactments decentralizing control of companies; and (3) any other formal measures by the government decentralizing control over export activities of companies.⁷³

The evidence provided by Jinlong, Guyu, Muchsee Wood, and seven other separate rate applicants supports a preliminary finding of the absence of *de jure* government control of export activities based on the following: (1) an absence of restrictive stipulations associated with the individual exporter's business and export licenses; (2) legislative enactments decentralizing control over export activities of the companies; and (3) other formal measures by the government decentralizing control over export activities of the companies.⁷⁴

b. Absence of *De Facto* Control

Typically, Commerce considers four factors in evaluating whether each respondent is subject to *de facto* government control of its export functions: (1) whether the export prices (EPs) are set by or are subject to the approval of a government agency; (2) whether the respondent has authority to negotiate and sign contracts and other agreements; (3) whether the respondent has autonomy from the government in making decisions regarding the selection of management; and (4) whether the respondent retains the proceeds of its export sales and makes independent decisions regarding disposition of profits or financing of losses.⁷⁵ As stated in previous cases, there is evidence that certain enactments of the Chinese central government have not been implemented uniformly among different sectors and/or jurisdictions in China.⁷⁶ Therefore, Commerce has determined that an analysis of *de facto* control is critical in determining whether respondents are, in fact, subject to a degree of government control which would preclude

⁷² See Muchsee Wood April 15, 2019, Section A Questionnaire Response (Muchsee Wood AQR); Jinlong June 19, 2019, Section A Questionnaire Response (Jinlong AQR); Guyu June 19, 2019, Section A Questionnaire Response (Guyu AQR); and the 2017-2018 SRAs, excluding Lauzon and Omni.

⁷³ See *Sparklers*, 56 FR at 20589.

⁷⁴ See Jinlong AQR, Guyu AQR, and Muchsee Wood AQR; see also Chenghang SRA; Deerfu SRA; Dalian Shengyu SRA; Dun Hua Sen Tai SRA; Scholar Home SRA; Yekalon SRA; and Wanrong SRA. As noted, we are rescinding the review with respect to Jinqiao Flooring, which also submitted an SRA. See Jinqiao Flooring SRA.

⁷⁵ See, e.g., *Silicon Carbide*, 59 FR at 22586-87; see also *Notice of Final Determination of Sales at Less Than Fair Value: Furfuryl Alcohol from the People's Republic of China*, 60 FR 22544, 22545 (May 8, 1995).

⁷⁶ See, e.g., *Silicon Carbide*, 59 FR at 22586-87.

Commerce from assigning separate rates.⁷⁷

The evidence provided by Jinlong, Guyu, Muchsee Wood, and the seven separate rate applicants noted above supports a preliminary finding of the absence of *de facto* government control based on the following: (1) the companies set their own export prices independent of the government and without the approval of a government authority; (2) the companies have authority to negotiate and sign contracts and other agreements; (3) the companies have autonomy from the government in making decisions regarding the selection of management; and (4) there is no restriction on any of the companies' use of export revenue.⁷⁸

As mentioned above, the petitioner submitted pre-preliminary comments on January 22, 2020, which assert that Jinlong has not cooperated to the best of its ability in this review and that Jinlong and Guyu should not be found eligible for a separate rate in this administrative review.⁷⁹ We did not receive these comments in time to fully consider them for these preliminary results. However, we intend to consider them for the final results and may request additional information from the respondents, which would be subject to verification.

Therefore, Commerce preliminarily finds that the evidence placed on the record of this review demonstrates an absence of *de jure* and *de facto* government control with respect to the following companies: Jinlong; Guyu; Muchsee Wood; Chenghang; Deerfu; Dalian Shengyu; Dun Hua Sen Tai; Scholar Home; Yekalon; and Wanrong.⁸⁰ Thus, Commerce preliminarily finds that these companies have established that each qualifies for a separate rate under the criteria established by *Diamond Sawblades*, *Silicon Carbide* and *Sparklers*.

3. China-Wide Entity

The record indicates that certain Chinese companies did not respond to Commerce's requests for information. Specifically, Commerce did not receive a no-shipments certification, an SRA, or an SRC from twelve companies that were named in the *AR Initiation Notices*.⁸¹ In addition, as previously stated, certain companies did not rebut the contradicting CBP information placed on the record of this administrative review and/or did not demonstrate separate rate eligibility by filing an SRA or SRC.⁸²

⁷⁷ *Id.*

⁷⁸ See Jinlong AQR, Guyu AQR, and Muchsee Wood AQR; see also Chenghang SRA; Deerfu SRA; Dalian Shengyu SRA; Dun Hua Sen Tai SRA; Scholar Home SRA; Yekalon SRA; and Wanrong SRA. All companies to which we are granting a separate rate, including those companies which submitted SRCs, are listed in the Appendix.

⁷⁹ See Petitioner Pre-Preliminary Comments at 10-13.

⁸⁰ See Jinlong AQR, Guyu AQR, and Muchsee Wood AQR; see also Chenghang SRA; Deerfu SRA; Dalian Shengyu SRA; Dun Hua Sen Tai SRA; Scholar Home SRA; Yekalon SRA; and Wanrong SRA.

⁸¹ These companies are Chinafloors Timber (China) Co., Ltd.; Dalian Guhua Wooden Product Co., Ltd.; Dalian Huade Wood Product Co., Ltd.; Dalian Huilong Wooden Products Co., Ltd.; Houzhou Chenchang Wood Co., Ltd.; Jiafeng Wood (Suzhou) Co., Ltd.; Linyi Bonn Flooring Manufacturing Co., Ltd.; Power Dekor North America Inc.; Shanghai Lairunde Wood Co., Ltd.; Shenzhenshi Huanwei Woods Co., Ltd.; Xiamen Yung De Ornament Co., Ltd.; and Zhejiang Fudeli Timber Industry Co., Ltd.

⁸² See the "Preliminary Determination of No Shipments" section.

Aside from the companies for which we preliminarily find demonstrated separate rate eligibility, made no shipments of subject merchandise during the POR, and/or for which this review is being rescinded, Commerce considers all other companies to be part of the China-wide entity.⁸³ Therefore, for the preliminary results of this administrative review, we consider 18 companies to be part of the China-wide entity.⁸⁴

Because no party requested a review of the China-wide entity and Commerce no longer considers the China-wide entity as an exporter conditionally subject to administrative reviews, Commerce is not conducting a review of the China-wide entity.⁸⁵ Thus, the rate for the China-wide entity (*i.e.*, 85.13 percent) is not subject to change pursuant to this review.⁸⁶

C. Affiliation and Single Entity

Due to the business proprietary nature of information relating to this analysis, a more detailed discussion of this matter can be found in the Affiliation and Collapsing Memorandum.⁸⁷

Section 771(33)(E) of the Act, in pertinent part, identifies persons that shall be considered “affiliated” or “affiliated persons” as: any person directly or indirectly owning, controlling, or holding with power to vote, five percent or more of the outstanding voting stock or shares of any organization and such organization. Section 771(33)(F) of the Act further provides affiliation exists when “[t]wo or more persons directly or indirectly controlling, controlled by, or under common control with, any person.” Section 771(33) of the Act further stipulates that a person shall be considered to control another person if the person is legally or operationally in a position to exercise restraint or direction over the other person. Commerce’s regulations at 19 CFR 351.102(b)(3) state that in determining whether control over another person exists within the meaning of section 771(33) of the Act, Commerce will not find that control exists unless the relationship has the potential to impact decisions concerning the production, pricing, or cost of the subject merchandise or foreign like product.⁸⁸

Jinlong reported that Fusong Jinlong, Fusong Qianqiu, Dalian Qianqiu, and Fusong Jinqiu are Chinese producers and exporters of subject merchandise.⁸⁹ Jinlong also reported that Fusong

⁸³ See *AR Initiation Notices* (“All firms listed below that wish to qualify for separate rate status in the administrative reviews involving NME countries must complete, as appropriate, either a separate rate application or certification, as described below.”).

⁸⁴ Companies that are subject to this administrative review that are considered to be part of the China-wide entity are listed in the Appendix.

⁸⁵ See *Antidumping Proceedings: Announcement of Change in Department Practice for Respondent Selection in Antidumping Duty Proceedings and Conditional Review of the Nonmarket Economy Entity in NME Antidumping Duty Proceedings*, 78 FR 65963, 65969-70 (November 4, 2013).

⁸⁶ See *Multilayered Wood Flooring from the People’s Republic of China: Final Results of Antidumping Duty Administrative Review and Final Determination of No Shipments; 2016-2017*, 84 FR 38002 (August 5, 2019).

⁸⁷ See Memorandum, “Antidumping Duty Administrative Review of Multilayered Wood Flooring from the People’s Republic of China; 2017-2018: Affiliation and Collapsing of The Fusong Jinlong Group,” dated concurrently with this memorandum (Affiliation and Collapsing Memorandum).

⁸⁸ See *Antidumping Duties; Countervailing Duties; Final Rule*, 62 FR 27296, 2727298 (May 19, 1997).

⁸⁹ See Jinlong AQR at 6 and Exhibit A-2.

Qianqiu, Dalian Qianqiu, and Fusong Jinqiu are subsidiaries of Fusong Jinlong.⁹⁰ On this basis, as discussed in the Affiliation and Collapsing Memorandum, Commerce preliminarily determines that the four companies are affiliated persons under section 771(33)(E) and (F) of the Act.

To the extent that Commerce's practice does not conflict with section 773(c) of the Act, Commerce has, in prior cases, treated certain exporters and/or producers as a single entity if record facts of the case supported such treatment.⁹¹ Pursuant to 19 CFR 351.401(f)(1), Commerce will treat producers as a single entity, or "collapse" them, where: (1) those producers are affiliated; (2) the producers have production facilities for producing similar or identical products that would not require substantial retooling of either facility in order to restructure manufacturing priorities; and (3) there is a significant potential for manipulation of price or production.⁹² In determining whether a significant potential for manipulation exists, 19 CFR 351.401(f)(2) states that Commerce may consider various factors, including: (1) the level of common ownership; (2) the extent to which managerial employees or board members of one firm sit on the board of directors of an affiliated firm; and (3) whether the operations of the affiliated firms are intertwined, such as through the sharing of sales information, involvement in production and pricing decisions, the sharing of facilities or employees, or significant transactions between the affiliated producers.⁹³

For the reasons discussed in the Affiliation and Collapsing Memorandum, we determine that record evidence supports the treatment of Dalian Qianqiu, Fusong Jinlong, Fusong Jinqiu, and Fusong Qianqiu as a single entity in this administrative review. Specifically, we preliminarily find that these companies are affiliated producers and exporters of the subject merchandise, and as such, there is a significant potential for manipulation of price or production.

D. Weighted-Average Dumping Margin for Non-Examined Separate-Rate Companies in the Administrative Review

As stated above in the "Respondent Selection" section of this memorandum, Commerce employed a limited examination methodology in this review, as it determined that it would not be practicable in light of its resources to individually examine all companies for which an administrative review was initiated, and therefore selected the two largest exporters by volume as mandatory respondents in this administrative review: Jinlong and Guyu. Fifty-four additional exporters also remain subject to review as non-individually examined, separate rate respondents.

⁹⁰ *Id.* at 8.

⁹¹ See, e.g., *Certain Steel Nails from the People's Republic of China: Preliminary Determination of Sales at Less Than Fair Value and Partial Affirmative Determination of Critical Circumstances and Postponement of Final Determination*, 73 FR 3928, 3932 (January 23, 2008), unchanged in *Certain Steel Nails from the People's Republic of China: Amended Preliminary Determination of Sales at Less Than Fair Value*, 73 FR 7254 (February 7, 2008) and *Certain Steel Nails from the People's Republic of China: Final Determination of Sales at Less Than Fair Value and Partial Affirmative Determination of Critical Circumstances*, 73 FR 33977 (June 16, 2008).

⁹² See, e.g., *Gray Portland Cement and Clinker from Mexico: Final Results of Antidumping Duty Administrative Review*, 63 FR 12764, 12774-12775 (March 16, 1998).

⁹³ See, e.g., *Nihon Cement Co., Ltd. v. United States, Slip Op. 93-80 (CIT May 25, 1993)*; see also, e.g., *Notice of Final Determination of Sales at Less Than Fair Value: Collated Roofing Nails from Taiwan*, 62 FR 51427, 51436 (October 1, 1997).

The statute and Commerce’s regulations do not address the establishment of a separate rate to be applied to companies not selected for individual examination when Commerce limits its examination pursuant to section 777A(c)(2) of the Act. Under section 735(c)(5)(A) of the Act, which refers to the establishment of the all-others rate in market economy less-than-fair-value investigations, and which we look to for guidance in determining the rate for non-individually examined separate rate respondents in NME administrative reviews, the all-others rate is normally “an amount equal to the weighted average of the estimated weighted average dumping margins established for exporters and producers individually investigated, excluding any zero and *de minimis* margins, and any margins determined entirely {on the basis of facts available (FA)}.” Accordingly, Commerce’s usual practice in determining the rate for separate-rate respondents not selected for individual examination, has been to average the weighted-average dumping margins for the selected companies, excluding rates that are zero, *de minimis*, or based entirely on FA.⁹⁴ However, when the weighted-average dumping margins established for all individually investigated respondents are zero, *de minimis*, or based entirely on FA, section 735(c)(5)(B) of the Act permits Commerce to “use any reasonable method to establish the estimated all-others rate for exporters and producers not individually investigated, including averaging the estimated weighted average dumping margins determined for the exporters and producers individually investigated.” Moreover, the Statement of Administrative Action accompanying the Uruguay Round Agreements Act (SAA) explains that “{t}he expected method in such cases will be to weight-average the zero and *de minimis* margins and margins determined pursuant to the facts available.”⁹⁵

In *Albemarle Corp. v. United States*, the Court of Appeals for the Federal Circuit affirmed the CIT’s holding that Commerce improperly “carried forward” the separate rate from the prior review because the mandatory respondents in the active proceeding all received *de minimis* margins.⁹⁶ In this administrative review, we have calculated a weighted-average dumping margin of zero for both mandatory respondents. Because this is the only calculated POR margin available, and in light of *Albemarle Corp. v. United States*, we are assigning this rate to the non-examined respondents which qualify for a separate rate in this review.

E. Surrogate Country and Surrogate Value Data

On May 16, 2019, and July 26, 2019, Commerce sent interested parties a letter inviting comments on: (1) the non-exhaustive list of countries that Commerce determined are at the same level of economic development as China based on annual per capita gross national income (GNI), (2) surrogate country selection, and (3) SV data to be used in the new shipper and

⁹⁴ See *Longkou Haimeng Mach. Co. v. United States*, 581 F. Supp. 2d 1344, 1357-60 (CIT 2008) (affirming Commerce’s determination to assign a 4.22 percent dumping margin to the separate-rate respondents in a segment where the three mandatory respondents received dumping margins of 4.22 percent, 0.03 percent, and zero percent, respectively); see also *Certain Kitchen Appliance Shelving and Racks from the People’s Republic of China: Final Determination of Sales at Less Than Fair Value*, 74 FR 36656, 36660 (July 24, 2009).

⁹⁵ See Statement of Administrative Action Accompanying the Uruguay Round Agreements Act, H.R. Doc. 103- 316, vol 1 (1994) at 873 (SAA).

⁹⁶ See *Albemarle Corp. v. United States*, 821 F.3d 1345 (Fed. Cir. 2016).

administrative reviews.⁹⁷ From May through August 2019, we received comments from interested parties regarding the selection of SV data for use in the preliminary results of these reviews.⁹⁸

1. Surrogate Country Selection

When Commerce investigates imports from an NME country, section 773(c)(1) of the Act directs it to base NV, in most circumstances, on the NME producer's factors of production (FOPs), valued in a surrogate ME country or countries considered to be appropriate by Commerce. In accordance with section 773(c)(4) of the Act, in valuing the FOPs, Commerce shall utilize, to the extent possible, the prices or costs of FOPs in one or more ME countries that are: (1) at a level of economic development comparable to that of the NME country; and (2) significant producers of comparable merchandise.⁹⁹ As a general rule, Commerce selects a surrogate country that is at the same level of economic development as the NME country unless it is determined that none of the countries are viable options because, either (a) they are not significant producers of comparable merchandise, (b) do not provide sufficient reliable sources of publicly available SV data, or (c) are not suitable for use based on other reasons.¹⁰⁰ Surrogate countries that are not at the same level of economic development as the NME country, but still at a level of economic development comparable to the NME country, are selected only to the extent that data considerations outweigh the difference in levels of economic development. To determine which countries are at the same level of economic development, Commerce generally relies on GNI data from the World Bank's World Development Report.¹⁰¹ Further, Commerce will normally value all FOPs from a single surrogate country.¹⁰²

In the Surrogate Comments Requests, Commerce identified Romania, Malaysia, Russia, Mexico, Brazil, and Kazakhstan, pursuant to section 773(c)(4) of the Act, as countries that are at the same level of economic development as China based on per capita 2017 GNI data available in the World Development Report provided by the World Bank.¹⁰³ In their surrogate country comments, the mandatory respondents and Muchsee Wood agreed that Romania should be used as the surrogate country in these reviews,¹⁰⁴ while the petitioner stated that public information indicates that Brazil, Malaysia, Romania, Mexico, and Russia are significant producers of

⁹⁷ See May 16, 2019, NSR Surrogate Comments Request and July 26, 2019, AR Surrogate Comments Request (collectively, Surrogate Comments Requests).

⁹⁸ See, e.g., Muchsee Wood NSR SC Comments and Muchsee Wood NSR SV Comments; Petitioner AR SC Comments; Jinlong AR SC Comments; Guyu AR SC Comments; Lumber Liquidators AR SC Comments; Petitioner AR SV Comments; Jinlong AR SV Comments; and Guyu AR SV Comments.

⁹⁹ See Policy Bulletin 04.1: Non-Market Economy Surrogate Country Selection Process (March 1, 2004) (Policy Bulletin).

¹⁰⁰ See Surrogate Comments Requests.

¹⁰¹ *Id.*

¹⁰² See 19 CFR 351.408(c)(2).

¹⁰³ See Surrogate Comments Requests.

¹⁰⁴ See Muchsee Wood May 30, 2019, NSR SC Comments; Jinlong August 14, 2019, AR SC Comments; and Guyu August 14, 2019, AR SC Comments. Additionally, Lumber Liquidators Services, LLC, an interested party, supports the recommendations of the mandatory respondents in the administrative review. See Lumber Liquidators August 14, 2019, AR SC Comments.

comparable merchandise.¹⁰⁵ In their SV comments, the petitioner, the mandatory respondents, and Muchsee Wood provided only Romanian data with which to value the FOPs.¹⁰⁶ Our surrogate country analysis follows below.

As indicated above, when selecting among several potential surrogate countries, Commerce's practice, in accordance with section 773(c)(1) of the Act, is to select a country that provides SV data which are product-specific, representative of a broad-market average, publicly available, contemporaneous with the POR, and free of taxes and duties.¹⁰⁷ There is no hierarchy among these criteria. It is Commerce's practice to carefully consider the available evidence in light of the particular facts of each industry when undertaking its analysis of valuing the FOPs.¹⁰⁸

2. Economic Comparability

As explained in the Surrogate Comments Requests, Commerce considers Romania, Malaysia, Russia, Mexico, Brazil, and Kazakhstan to be at the same level of economic development as China.¹⁰⁹ Therefore, we consider all six countries as having satisfied this prong of the surrogate country selection criteria.¹¹⁰

3. Significant Producer of Identical or Comparable Merchandise

Section 773(c)(4)(B) of the Act requires Commerce to value FOPs in a surrogate country that is a significant producer of comparable merchandise; however, neither the statute nor Commerce's regulations define "significant" or "comparable." Given the absence of any definition in the statute or regulations, Commerce looks to other sources such as the Policy Bulletin for guidance. Commerce's practice is to evaluate whether production is significant based on characteristics of world production of, and trade in, comparable merchandise (subject to the availability of data on these characteristics) and to determine whether merchandise is comparable on a case-by-case basis.¹¹¹ Moreover, while the legislative history provides that the term "significant producer" includes any country that is a significant "net exporter," it does not preclude reliance on additional or alternative metrics.¹¹² Where there is no production information, Commerce has relied upon export data from potential surrogate countries. With respect to comparability of

¹⁰⁵ See Petitioner August 14, 2019, AR SC Comments.

¹⁰⁶ See Muchsee Wood June 6, 2019, NSR SV Comments; Petitioner August 23, 2019, AR SV Comments; Jinlong August 23, 2019, AR SV Comments; and Guyu August 23, 2019, AR SV Comments.

¹⁰⁷ See, e.g., *First Administrative Review of Certain Polyester Staple Fiber from the People's Republic of China: Final Results of Antidumping Duty Administrative Review*, 75 FR 1336 (January 11, 2010), and accompanying IDM at Comment 1.

¹⁰⁸ See, e.g., *Certain Steel Threaded Rod from the People's Republic of China: Final Results of Third Antidumping Duty Administrative Review; 2011-2012*, 78 FR 66330 (November 5, 2013), and accompanying IDM at 7.

¹⁰⁹ See Surrogate Comments Requests.

¹¹⁰ See Section 773(c)(4)(A) of the Act.

¹¹¹ See, e.g., *Xanthan Gum from the People's Republic of China: Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination*, 78 FR 2252 (January 10, 2013), and accompanying PDM at 7-8, unchanged in *Xanthan Gum from the People's Republic of China: Final Determination of Sales at Less Than Fair Value*, 78 FR 33351 (June 4, 2013) (*Xanthan Gum*).

¹¹² See *Conference Report to the 1988 Omnibus Trade & Competitiveness Act, H.R. Rep. No. 100-576* (1988), at 590.

merchandise, the Policy Bulletin states that “in all cases, if identical merchandise is produced, the country qualifies as a producer of comparable merchandise.”¹¹³ Where there is no evidence of production of identical merchandise in a potential surrogate country, Commerce has determined whether merchandise is comparable to the subject merchandise on the basis of similarities in physical form and the extent of processing or on the basis of production factors (physical and non-physical) and factor intensities.¹¹⁴ Because these characteristics are specific to the merchandise in question, the standard for “significant producer” will vary from case to case.¹¹⁵ Based on the information placed on the record of these administrative and new shipper reviews, Commerce determines that Romania, Malaysia, Russia, Mexico, Brazil, and Kazakhstan are all significant producers of comparable merchandise.¹¹⁶

4. Data Availability

The Policy Bulletin states that if more than one potential surrogate country satisfies the statutory requirements for selection as a surrogate country, Commerce selects the primary surrogate country “with the best factors data.”¹¹⁷ Section 773(c)(1) of the Act instructs Commerce to value the FOPs based upon the best available information from an ME country or countries that Commerce considers appropriate. When evaluating SV data, Commerce considers several factors including whether SV data are publicly available, contemporaneous with the POR, representative of a broad-market average, tax- and duty-exclusive, and specific to the input.¹¹⁸ There is no hierarchy among these criteria, and it is Commerce’s practice to carefully consider the available evidence in light of the particular facts of each industry when undertaking its analysis.¹¹⁹ However, Commerce’s preference is to satisfy the breadth of these aforementioned selection factors,¹²⁰ and to value all FOPs in the primary surrogate country.¹²¹

We considered the SV data on the record and found that Romania is the only potential surrogate country for which the record contains usable data for valuing all of the respondents’ FOPs.¹²² Further, we find that the Romanian data and financial statements on the record are of an acceptable quality for use as SVs.¹²³ The Romanian data generally are publicly available,

¹¹³ See Policy Bulletin at 3.

¹¹⁴ *Id.*

¹¹⁵ See Policy Bulletin at 1-2; see also, e.g., *Hardwood and Decorative Plywood from the People’s Republic of China: Final Determination of Sales at Less Than Fair Value*, 78 FR 58273 (September 23, 2013) and accompanying IDM at Comment 7.

¹¹⁶ See Muchsee Wood NSR SC Comments at Exhibit 1; Petitioner AR SC Comments at Attachment 1; Jinlong AR SC Comments at Attachment 1; and Guyu AR SC Comments.

¹¹⁷ See Policy Bulletin at 2.

¹¹⁸ See, e.g., *Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Final Results of Antidumping Duty Administrative Review and New Shipper Reviews; 2010-2011*, 78 FR 17350 (March 21, 2013), and accompanying IDM at Comment I(C).

¹¹⁹ See Policy Bulletin.

¹²⁰ *Id.*

¹²¹ See, e.g., *Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled into Modules, from the People’s Republic of China: Final Determination of Sales at Less Than Fair Value, and Affirmative Final Determination of Critical Circumstances, in Part*, 77 FR 63791 (October 17, 2012), and accompanying IDM at Comment 9.

¹²² See Memorandum, “Antidumping Duty Administrative Review and New Shipper Review of Multilayered Wood Flooring from the People’s Republic of China; 2017-2018: Surrogate Values for the Preliminary Results,” dated concurrently with this memorandum (Preliminary SV Memorandum).

¹²³ *Id.*

contemporaneous with the POR, representative of broad-market averages, tax- and duty-exclusive, and specific to the inputs being valued. Thus, Commerce finds that the Romanian SV data satisfy the criteria for selecting SVs.

Given the above facts, Commerce preliminarily selects Romania as the primary surrogate country for these administrative and new shipper reviews. Romania is at a comparable level of economic development pursuant to 773(c)(4) of the Act; is a significant producer of comparable merchandise; and has publicly available and reliable data for all the identified FOPs submitted by interested parties. An explanation of the SV data used in our preliminary analysis is provided below in the “Normal Value” section of this memorandum.

F. Date of Sale

Pursuant to 19 CFR 351.401(i), Commerce normally will use the invoice date as the date of sale unless Commerce is satisfied that a different date better reflects the date on which the material terms of the sale are established. Additionally, Commerce may use a date other than the date of invoice if it is satisfied that a different date better reflects the date on which the exporter or producer establishes the material terms of sale.¹²⁴ Finally, Commerce has a long-standing practice of finding that, where the shipment date precedes the invoice date, the shipment date better reflects the date on which the material terms of sale are established.¹²⁵

Both Jinlong and Guyu reported the date of invoice as the date of sale for all U.S. sales because the material terms of sale (*i.e.*, price and quantity) are not final until issuance of the invoice.¹²⁶ However, for certain sales transactions, Guyu’s reported that the date of shipment preceded the date of invoice.¹²⁷ Therefore, consistent with 19 CFR 351.401(i) and Commerce’s practice, we used the earlier of Guyu’s shipment date or invoice date as the date of sale, as applicable.¹²⁸

Muchsee Wood reported the date of invoice as the date of sale for its one sale to the United States.¹²⁹ Consistent with our regulatory presumption of invoice date as the date of sale and because the evidence does not demonstrate that the material terms of sale were established on another date,¹³⁰ we used Muchsee Wood’s invoice date as the date of sale for its U.S. sale.

¹²⁴ See 19 CFR 351.401(i); see also *Allied Tube & Conduit Corp. v. United States*, 132 F. Supp. 2d 1087, 1090 (CIT 2001) (quoting 19 CFR 351.401(i)).

¹²⁵ See, e.g., *Certain Polyester Staple Fiber from the Republic of Korea: Preliminary Results of the 2007/2008 Antidumping Duty Administrative Review*, 74 FR 27281, 27283 (June 9, 2009), unchanged in *Certain Polyester Staple Fiber from the Republic of Korea: Final Results of the 2007-2008 Antidumping Duty Administrative Review*, 74 FR 65517 (December 10, 2009).

¹²⁶ See Jinlong AQR at 13; see also Guyu AQR at A-13; Guyu August 13, 2019, Section A Supplemental Questionnaire Response (Section A SQR) at 2 and Guyu July 10, 2019, Section C Questionnaire Response (Guyu CQR) at 11-12.

¹²⁷ See Guyu September 3, 2019, Second Supplemental Questionnaire Response (Guyu Second SQR) at 5 and Exhibit SC-2.

¹²⁸ See, e.g., Commerce’s Letter, “Antidumping Duty Questionnaire to Jiangsu Guyu International Trading Co., Ltd.,” dated May 22, 2019, at I-3.

¹²⁹ See Muchsee Wood April 15, 2019, Section A Questionnaire Response (Muchsee Wood AQR) at 15-16 and May 10, 2019, Sections C and D Questionnaire Response (Muchsee Wood CDQR) at 13-14.

¹³⁰ See 19 CFR 351.401(i).

G. Comparisons to Normal Value

Pursuant to section 773(a) of the Act and 19 CFR 351.414(c)(1) and (d), to determine whether Jinlong's, Guyu's and Muchsee Wood's sales of the subject merchandise to the United States were made at less than NV, Commerce compared the EP to the NV as described in the "Export Price" and "Normal Value" sections of this memorandum.

1. Determination of Comparison Method

Pursuant to 19 CFR 351.414(c)(1), Commerce calculates weighted-average dumping margins by comparing weighted-average NVs to weighted-average EPs or constructed export prices (CEPs) (*i.e.*, the average-to-average (A-A) method) unless the Secretary determines that another method is appropriate in a particular situation. In less-than-fair-value investigations, Commerce examines whether to compare weighted-average NVs with the EPs or CEPs of individual sales (*i.e.*, the average-to-transaction (A-T) method) as an alternative comparison method using an analysis consistent with section 777A(d)(1)(B) of the Act. Although section 777A(d)(1)(B) of the Act does not strictly govern our examination of this question in the context of administrative reviews, Commerce nevertheless finds that the issue arising under 19 CFR 351.414(c)(1) in administrative reviews is, in fact, analogous to the issue in less-than-fair-value investigations.¹³¹

Commerce has applied a "differential pricing" analysis for determining whether application of the A-T method is appropriate in a particular situation pursuant to 19 CFR 351.414(c)(1) and section 777A(d)(1)(B) of the Act.¹³² Commerce finds that the differential pricing analysis used in recent investigations may be instructive for purposes of examining whether to apply an alternative comparison method in these preliminary results. Commerce will continue to develop its approach in this area based on comments received in this and other proceedings, and on Commerce's additional experience with addressing the potential masking of dumping that can occur when Commerce uses the A-A method in calculating a respondent's weighted-average dumping margin.

The differential pricing analysis used in these preliminary results was affirmed by the Court of Appeals for the Federal Circuit (CAFC) as in accordance with law in *Apex Frozen Foods Private Ltd. v. United States*.¹³³ That analysis examines whether there exists a pattern of EPs (or CEPs) for comparable merchandise that differ significantly among purchasers, regions, or time periods. The analysis evaluates all export sales by purchaser, region, and time period to determine whether a pattern of prices that differ significantly exists. If such a pattern is found, then the

¹³¹ See *Ball Bearings and Parts Thereof from France, Germany, and Italy: Final Results of Antidumping Duty Administrative Reviews; 2010–2011*, 77 FR 73415 (December 10, 2012), and the accompanying IDM at Comment 1; see also *JBF RAK LLC v. United States*, 790 F.3d 1358, 1363–65 (Fed. Cir. 2015) ("the fact that the statute is silent with regard to administrative reviews does not preclude Commerce from filling gaps in the statute to properly calculate and assign antidumping duties") (*citations omitted*).

¹³² See, e.g., *Xanthan Gum LTFV Final Determination; Steel Concrete Reinforcing Bar from Mexico: Final Determination of Sales at Less Than Fair Value and Final Affirmative Determination of Critical Circumstances*, 79 FR 54967 (September 15, 2014); or *Welded Line Pipe from the Republic of Turkey: Final Determination of Sales at Less Than Fair Value*, 80 FR 61362 (October 13, 2015).

¹³³ See *Apex Frozen Foods Private Ltd. v. United States*, 37 F. Supp. 3d 1286, 1322 (CIT 2014), *aff'd*, 862 F. 3d 1322 (Fed. Cir. 2017) (*Apex*).

differential pricing analysis evaluates whether such differences can be taken into account when using the A-A method to calculate the weighted-average dumping margin. The analysis incorporates default group definitions for purchasers, regions, time periods, and comparable merchandise. Purchasers are based on the reported consolidated customer codes. Regions are defined using the reported destination code (*i.e.*, zip code) and are grouped into regions based upon standard definitions published by the U.S. Census Bureau. Time periods are defined by the quarter within the POR based upon the reported date of sale. For purposes of analyzing sales transactions by purchaser, region, and time period, comparable merchandise is defined using the product control number and all characteristics of the U.S. sales, other than purchaser, region, and time period, that Commerce uses in making comparisons between EPs (or CEPs) and NV for the individual dumping margins.

In the first stage of the differential pricing analysis used here, the “Cohen’s *d* test” is applied. The Cohen’s *d* coefficient is a generally recognized statistical measure of the extent of the difference between the mean (*i.e.*, weighted-average price) of a test group and the mean (*i.e.*, weighted-average price) of a comparison group. First, for comparable merchandise, the Cohen’s *d* coefficient is calculated when the test and comparison groups of data for a particular purchaser, region or time period each have at least two observations, and when the sales quantity for the comparison group accounts for at least five percent of the total sales quantity of the comparable merchandise. Then, the Cohen’s *d* coefficient is used to evaluate the extent to which the net prices to the particular purchaser, region, or time period differ significantly from the net prices of all other sales of comparable merchandise. The extent of these differences can be quantified by one of three fixed thresholds defined by the Cohen’s *d* test: small, medium or large (0.2, 0.5 and 0.8, respectively). Of these thresholds, the large threshold provides the strongest indication that there is a significant difference between the mean of the test and comparison groups, while the small threshold provides the weakest indication that such a difference exists. For this analysis, the difference is considered significant, and the sales in the test group are found to pass the Cohen’s *d* test, if the calculated Cohen’s *d* coefficient is equal to or exceeds the large (*i.e.*, 0.8) threshold.

Next, the “ratio test” assesses the extent of the significant price differences for all sales as measured by the Cohen’s *d* test. If the value of sales to purchasers, regions, and time periods that pass the Cohen’s *d* test account for 66 percent or more of the value of total sales, then the identified pattern of prices that differ significantly supports the consideration of the application of the A-T method to all sales as an alternative to the A-A method. If the value of sales to purchasers, regions, and time periods that pass the Cohen’s *d* test accounts for more than 33 percent and less than 66 percent of the value of total sales, then the results support consideration of the application of an A-T method to those sales identified as passing the Cohen’s *d* test as an alternative to the A-A method, and application of the A-A method to those sales identified as not passing the Cohen’s *d* test. If 33 percent or less of the value of total sales passes the Cohen’s *d* test, then the results of the Cohen’s *d* test do not support consideration of an alternative to the A-A method.

If both tests in the first stage (*i.e.*, the Cohen’s *d* test and the ratio test) demonstrate the existence of a pattern of prices that differ significantly such that an alternative comparison method should be considered, then in the second stage of the differential pricing analysis, Commerce examines

whether using only the A-A method can appropriately account for such differences. In considering this question, Commerce tests whether using an alternative comparison method, based on the results of the Cohen's *d* and ratio tests described above, yields a meaningful difference in the weighted-average dumping margin as compared to that resulting from the use of the A-A method only. If the difference between the two calculations is meaningful, then this demonstrates that the A-A method cannot account for differences such as those observed in this analysis, and, therefore, an alternative comparison method would be appropriate. A difference in the weighted-average dumping margins is considered meaningful if 1) there is a 25 percent relative change in the weighted-average dumping margins between the A-A method and the appropriate alternative method where both rates are above the *de minimis* threshold, or 2) the resulting weighted-average dumping margins between the A-A method and the appropriate alternative method move across the *de minimis* threshold.

Interested parties may present arguments and justifications in relation to the above-described differential pricing approach used in these preliminary results, including arguments for modifying the group definitions used in this proceeding.¹³⁴

2. Results of the Differential Pricing Analysis

Based on the results of the differential pricing analysis, Commerce preliminarily finds that 44.80 percent of Jinlong's U.S. sales¹³⁵ and 59.90 percent of Guyu's U.S. sales¹³⁶ pass the Cohen's *d* test and confirms the existence of a pattern of prices that differ significantly among purchasers, regions, or time periods. Further, Commerce preliminarily determines for both Jinlong and Guyu, that there is no meaningful difference between the weighted-average dumping margin calculated using the A-A method and the weighted-average dumping margin calculated using an alternative comparison method based on applying the A-T method to those sales identified as passing the Cohen's *d* test and the A-A method to those sales identified as not passing the Cohen's *d* test.

Additionally, Commerce preliminarily finds that 0.00 percent of Muchsee Wood's sale pass the Cohen's *d* test,¹³⁷ which does not confirm the existence of a pattern of prices for comparable merchandise that differ significantly among purchasers, regions, or time periods, and does not support the consideration of an alternative to the A-A method. Thus, for these preliminary

¹³⁴ As noted above, the CAFC has affirmed much of Commerce's differential pricing methodology. *See Apex*, 862 F. 3d 1322. We ask that interested parties present only arguments on issues which have not already been decided by the CAFC.

¹³⁵ *See* Memorandum, "Antidumping Duty Administrative Review of Multilayered Wood Flooring from the People's Republic of China; 2017-2018: Preliminary Results Margin Calculation for the Fusong Jinlong Group," dated concurrently with this memorandum (Jinlong Preliminary Calculation Memorandum).

¹³⁶ *See* Memorandum, "Antidumping Duty Administrative Review of Multilayered Wood Flooring from the People's Republic of China; 2017-2018: Preliminary Results Margin Calculation for Jiangsu Guyu International Trade Co., Ltd.," dated concurrently with this memorandum (Guyu Preliminary Calculation Memorandum).

¹³⁷ *See* Memorandum, "Antidumping Duty New Shipper Review of Multilayered Wood Flooring from the People's Republic of China; 2017-2018: Preliminary Results Margin Calculation for Muchsee Wood (Chuzhou) Co., Ltd.," dated concurrently with this memorandum (Muchsee Wood Preliminary Calculation Memorandum).

results, Commerce is applying the A-A method for all U.S. sales to calculate the weighted-average dumping margins for Jinlong, Guyu, and Muchsee Wood.¹³⁸

H. U.S. Price

1. Export Price

In accordance with section 772(a) of the Act, EP is “the price at which the subject merchandise is first sold (or agreed to be sold) before the date of importation by the producer or exporter of the subject merchandise outside of the United States to an unaffiliated purchaser in the United States or to an unaffiliated purchaser for exportation to the United States,” as adjusted under section 772(c) of the Act. We calculated EP for Jinlong’s, Guyu’s, and Muchsee Wood’s reported sales to the United States because they represented the first sale to an unaffiliated party made before the date of importation and the use of CEP was not otherwise warranted.¹³⁹ In accordance with section 772(c)(2)(A) of the Act, where appropriate, Commerce deducted from the starting price (gross unit price) to unaffiliated purchasers expenses for foreign inland freight, foreign brokerage and handling, and international freight.¹⁴⁰ Because these expenses were provided by an NME vendor, we valued them using SVs, as appropriate.¹⁴¹ Additionally, in accordance with section 772(c)(2)(B) of the Act, Commerce deducted any irrecoverable value-added tax (VAT) from the starting price as explained below.¹⁴²

2. Value-Added Tax

Commerce’s recent practice in NME cases is to adjust EP (or the CEP) for the amount of any unrefunded (herein irrecoverable) value-added tax (VAT) in certain non-market economies, in accordance with section 772(c)(2)(B) of the Act.¹⁴³ Commerce has previously explained that, when an NME government imposes an export tax, duty, or other charges on subject merchandise, or on inputs used to produce subject merchandise, from which the respondent was not exempted, Commerce will reduce the respondent’s EP and CEP prices accordingly, by the amount of the tax, duty or charge paid, but not rebated.¹⁴⁴ Where the irrecoverable VAT is a fixed percentage of EP or CEP, Commerce explained that the final step in arriving at a tax neutral dumping comparison is to reduce the U.S. EP or CEP downward by this same percentage.¹⁴⁵

¹³⁸ See Jinlong Preliminary Calculation Memorandum, Guyu Preliminary Calculation Memorandum, and Muchsee Wood Preliminary Calculation Memorandum.

¹³⁹ See Jinlong AQR, Guyu AQR, and Muchsee Wood AQR.

¹⁴⁰ See Jinlong Preliminary Calculation Memorandum, Guyu Preliminary Calculation Memorandum, and Muchsee Wood Preliminary Calculation Memorandum; see also Jinlong July 16, 2019, Sections C and D Questionnaire Response (Jinlong CDQR) at C-19 – C-20; Guyu CQR at 19-22; and Muchsee Wood CDQR at 20-21.

¹⁴¹ See Preliminary SV Memorandum.

¹⁴² *Id.* See also Jinlong CDQR at C-33 – C-34; Guyu CQR at 33-35 and Guyu 2SQR at 6-7; and Muchsee Wood CDQR at 31-32.

¹⁴³ See *Methodological Change for Implementation of Section 772(c)(2)(B) of the Tariff Act of 1930, as Amended, In Certain Non-Market Economy Antidumping Proceedings*, 77 FR 36481 (June 19, 2012).

¹⁴⁴ *Id.*; see also *Chlorinated Isocyanurates from the People’s Republic of China: Final Results of Antidumping Duty Administrative Review; 2011-2012*, 79 FR 4875 (January 30, 2014), and accompanying IDM at Comment 5.A.

¹⁴⁵ *Id.*

VAT is an indirect, *ad valorem* consumption tax imposed on the purchase (sale) of goods. It is levied on the purchase (sale) price of the good, *i.e.*, it is paid by the buyer and collected by the seller. For example, if the purchase price is \$100 and the VAT rate is 15 percent, the buyer pays \$115 to the seller, \$100 for the good and \$15 in VAT. VAT is typically imposed at every stage of production. Thus, under a typical VAT system, firms: (1) pay VAT on their purchases of production inputs and raw materials (“input VAT”) as well as (2) collect VAT on sales of their output (“output VAT”).

Firms calculate input VAT and output VAT for tax purposes on a company-wide (not transaction-specific) basis, *i.e.*, in the case of input VAT, on the basis of *all input purchases* regardless of whether used in the production of goods for export or domestic consumption, and in the case of output VAT, on the basis of *all sales to all markets*, foreign and domestic. Thus, a firm might pay the equivalent of \$60 million in total input VAT across all input purchases and collect \$100 million in total output VAT across all sales. In this situation, however, the firm would remit to the government only \$40 million of the \$100 million in output VAT collected on its sales because of a \$60 million credit for input VAT paid that the firm can claim against output VAT.¹⁴⁶ As a result, the firm bears no “VAT burden (cost)”: the firm through the credit is refunded or recovers all of the \$60 million in input VAT it paid, and the \$40 million remittance to the government is simply a transfer to the government of VAT paid by (collected from) the buyer with the firm acting only as an intermediary. Thus, the cost of output VAT falls on the buyer or the good, not on the firm.

This would describe the situation under Chinese law except that producers in China, in most cases, do not recover (*i.e.*, are not refunded) the total input VAT they paid. Instead, Chinese tax law requires a *reduction in or offset to* the input VAT that can be credited against output VAT. The formula for this reduction/offset is provided in Article 5 of the 2012 Chinese government tax regulation, *Circular on Value-Added Tax and Consumption Tax Policies on Exported Goods and Services (2012 VAT Circular)*:¹⁴⁷

$$\text{Reduction/Offset} = (P - c) \times (T_1 - T_2),$$

where,

P = (VAT-free) free-on-board (FOB) value of export sales;

c = value of bonded (duty- and VAT-free) imports of inputs used in the production of goods for export;

T₁ = VAT rate; and,

T₂ = refund rate specific to the export good.

Using the example above, if P = \$200 million, c = 0, T₁ = 17% and T₂ = 10%, then the reduction/offset = (\$200 million - \$0) x (17% - 10%) = \$200 million x 7% = \$14 million. Chinese law then requires that the firm in this example calculate creditable input VAT by subtracting the \$14 million from total input VAT, as specified in Article 5.1(1) of the *2012 VAT Notice*:

$$\text{Creditable input VAT} = \text{Total input VAT} - \text{Reduction/Offset}$$

¹⁴⁶ The credit, if not exhausted in the current period, can be carried forward.

¹⁴⁷ See Memorandum, “2012 China VAT Circular,” dated October 24, 2019.

Using again the example above, the firm can credit only \$60 million – \$14 million = \$46 million of the \$60 million in input VAT against output VAT. Since the \$14 million is not creditable (legally recoverable), it is not refunded to the firm. Thus, the firm incurs a cost equal to \$14 million, which is calculated on the basis of FOB export value at the *ad valorem* rate of $T_1 - T_2$. This cost therefore functions as an “export tax, duty, or other charge” because the firm does not incur it *but for* exportation of the subject merchandise, and under Chinese law must be recorded as a cost of exported goods.¹⁴⁸ It is for this “export tax, duty, or other charge” that Commerce makes a downward adjustment to U.S. price under section 772(c) of the Act.¹⁴⁹

It is important to note that under Chinese law, the reduction/offset described above is defined in terms of, and applies to, total (company-wide) input VAT across purchases of all inputs, whether used in the production of goods for export or domestic consumption. The reduction/offset does not distinguish the VAT treatment of export sales from the VAT treatment of domestic sales from an input VAT recovery standpoint for the simple reason that such treatment under Chinese law applies to the company as a whole, not specific markets or sales. At the same time, however, the reduction/offset is calculated on the basis of the FOB value of exported goods, so it can be thought of as a tax on the company (*i.e.*, a reduction in the input VAT credit) that the company would not incur but for the export sales it makes, a tax fully allocable to export sales because the firm under Chinese law must book it as a cost of exported goods.

The VAT treatment under Chinese law of exports of goods described above concerns only export sales that are *not* subject to output VAT, the situation where the firm collects no VAT from the buyer, which applies to most exports from China. However, the *2012 VAT Circular* provides for a limited exception in which export sales of certain goods are, under Chinese law, deemed domestic sales for tax purposes and are thus subject to output VAT at the full rate.¹⁵⁰ The formulas discussed above from Article 5 of the *2012 VAT Circular* do not apply to firms that export these goods, and there is therefore no reduction in or offset to their creditable input VAT. For these firms creditable input VAT = total input VAT, *i.e.*, these firms recover all of their input VAT. At the same time, export sales of these firms are subject to an explicit output VAT at the

¹⁴⁸ Article 5(3) of the *2012 VAT Circular* states: “If the tax refund rate is lower than the applicable tax rate, the tax for the difference calculated accordingly shall be included in the cost of exported goods and labor services.”

¹⁴⁹ Because the \$14 million is the amount of input VAT that is not refunded to the firm, it is sometimes referred to as “irrecoverable input VAT.” However, that phrase is perhaps misleading because the \$14 million is not a fraction or percentage of the VAT the firm paid on purchases of inputs used in the production of exports. If that were the case, the value of production inputs, not FOB export value, would appear somewhere in the formula in Article 5 of the *2012 VAT Circular* as the tax basis for the calculation. The value of production inputs does not appear in the formula. Instead, as explained above, the \$14 million is simply a cost imposed on firms that is tied to export sales, as evidenced by the formula’s reliance on the FOB export value as the tax basis for the calculation. The \$14 million is a reduction in or offset to what is essentially a tax credit, and it is calculated based on and is proportional to the value of a company’s export sales. Thus, “irrecoverable input VAT” is in fact, despite its name, an export tax within the meaning of section 772(c) of the Act.

¹⁵⁰ See *2012 VAT Circular*, Article 7. For these goods, the VAT refund rate on export is zero.

full rate, T₁.¹⁵¹ Commerce must therefore deduct this tax from U.S. price¹⁵² under section 772(c) of the Act to ensure tax-neutral dumping margin calculations.¹⁵³

As such, in the initial questionnaires, Commerce instructed the mandatory respondents to report VAT on the subject merchandise sold to the United States during the POR and to identify which taxes are unrefunded upon export. Information placed on the record of these reviews indicates that according to the China VAT schedule, the standard VAT levy during the POR was 17 percent during one portion of the POR and 16 percent during another portion of the POR, and the rebate rate during the POR was 9 and 13 percent, respectively.¹⁵⁴

Consistent with our standard methodology, for purposes of these preliminary results, we based the calculation of irrecoverable VAT on the difference between the standard levy (*i.e.*, 17 or 16 percent) and rebate rates, applied to an FOB price at the time of exportation.¹⁵⁵ Thus, because the VAT rebate rates on exports changed during the POI, we used two different rebate rates (*i.e.*, 9 or 13 percent). We deducted from the gross unit price an amount for irrecoverable VAT equal to eight, seven, or three percent of the gross unit price, as applicable, consistent with section 772(c)(2)(B) of the Act.¹⁵⁶

I. Normal Value

Section 773(c)(1) of the Act provides that Commerce shall determine the NV using an FOP methodology if the merchandise is exported from an NME and the information does not permit the calculation of NV using home-market prices, third-country prices, or constructed value under section 773(a) of the Act. Commerce bases NV in an NME context on FOPs because the presence of government controls on various aspects of NME countries renders price comparisons and the calculation of production costs invalid under Commerce's normal methodologies.¹⁵⁷ Therefore, we calculated NV based on FOPs in accordance with sections 773(c)(3) and (4) of the Act and 19 CFR 351.408(c). Under section 773(c)(3) of the Act, FOPs include, but are not limited to: (1) hours of labor required; (2) quantities of raw materials employed; (3) amounts of energy and other utilities consumed; and (4) representative capital costs.¹⁵⁸ We used the FOPs

¹⁵¹ See 2012 VAT Circular, Article 7.2(1).

¹⁵² Commerce will divide the VAT-inclusive export price by (1 + T), where T is the applicable VAT rate.

¹⁵³ Pursuant to sections 772(c) and 773(c) of the Act, the calculation of NV based on FOPs in NME antidumping cases is calculated on a VAT-exclusive basis, so U.S. price must also be calculated on a VAT-exclusive basis to ensure tax neutrality.

¹⁵⁴ See, *e.g.*, Jinlong CDQR at Exhibits C-3 and C-4.

¹⁵⁵ See, *e.g.*, *Polyethylene Terephthalate Film, Sheet, and Strip from the People's Republic of China: Final Results of Antidumping Duty Administrative Review and Final Determination of No Shipments; 2012-2013*, 80 FR 33241 (June 11, 2015), and accompanying IDM at Comment 5.

¹⁵⁶ See, *e.g.*, Guyu Preliminary Calculation Memorandum.

¹⁵⁷ See, *e.g.*, *Preliminary Determination of Sales at Less Than Fair Value, Affirmative Critical Circumstances, In Part, and Postponement of Final Determination: Certain Lined Paper Products from the People's Republic of China*, 71 FR 19695, 19703 (April 17, 2006), unchanged in *Notice of Final Determination of Sales at Less Than Fair Value, and Affirmative Critical Circumstances, In Part: Certain Lined Paper Products from the People's Republic of China*, 71 FR 53079 (September 8, 2006).

¹⁵⁸ See section 773(c)(3)(A)-(D) of the Act.

reported by Jinlong, Guyu, and Muchsee Wood for materials, energy, labor, by-products, packing and freight. In accordance with section 773(c) of the Act and 19 CFR 351.408(c)(1), we calculated NV by multiplying the reported per-unit FOP consumption rates by publicly available SVs.¹⁵⁹

1. Factor Valuation Methodology

In accordance with section 773(c) of the Act, we calculated NVs based on the FOPs reported by Jinlong, Guyu, and Muchsee Wood for the POR. For a detailed discussion of the SVs used in this review, *see* the Preliminary SV Memorandum.

As noted above, when selecting from among the available information for valuing FOPs, Commerce's practice is to select, to the extent practicable, SVs which are publicly available, broad-market averages, contemporaneous with the POR or closest in time to the POR, product-specific, and tax- and duty-exclusive.¹⁶⁰ In all instances, we valued FOPs using publicly available information that was contemporaneous with the POR; therefore, we did not adjust the SVs using inflation indices. In addition, as discussed in more detail below, where appropriate, we adjusted input prices by including freight costs to make them delivered prices. An overview of the SVs used to calculate the weighted-average dumping margins for Jinlong, Guyu, and Muchsee Wood is provided below.

Pursuant to 19 CFR 351.408(c)(1), when a respondent sources inputs from an ME supplier in meaningful quantities (*i.e.*, not insignificant quantities) and pays in an ME currency, Commerce uses the actual price paid by the respondent to value those inputs, except when prices may have been distorted by findings of dumping and/or subsidization.¹⁶¹ Where Commerce finds ME purchases to be of significant quantities (*i.e.*, 85 percent or more), in accordance with our statement of policy as outlined in *ME Inputs Final Rule*, Commerce uses the actual purchase prices to value the inputs. Alternatively, when the volume of an NME firm's purchases of an input from ME suppliers during the period is below 85 percent of its total volume of purchases of the input during the period, but where these purchases are otherwise valid and there is no reason to disregard the prices, Commerce will weight-average the ME purchase price with an appropriate SV, according to the respective share of ME and NME purchases relative to the total volume of purchases, unless case-specific facts provide adequate grounds to rebut the presumption.¹⁶² When a firm has made ME input purchases that may have been dumped or

¹⁵⁹ See Jinlong Preliminary Calculation Memorandum, *see also* Guyu Preliminary Calculation Memorandum, and Muchsee Wood Preliminary Calculation Memo.

¹⁶⁰ See, e.g., *Electrolytic Manganese Dioxide from the People's Republic of China: Final Determination of Sales at Less Than Fair Value*, 73 FR 48195 (August 18, 2008), and the accompanying Issues and Decision Memorandum at Comment 2; *Notice of Preliminary Determination of Sales at Less Than Fair Value, Negative Preliminary Determination of Critical Circumstances and Postponement of Final Determination: Certain Frozen and Canned Warmwater Shrimp from the Socialist Republic of Vietnam*, 69 FR 42672, 42682 (July 16, 2004), unchanged in *Final Determination of Sales at Less Than Fair Value: Certain Frozen and Canned Warmwater Shrimp from the Socialist Republic of Vietnam*, 69 FR 71005 (December 8, 2004).

¹⁶¹ See, e.g., *Antidumping Duties; Countervailing Duties; Final Rule*, 62 FR 27296, 27366 (May 19, 1997).

¹⁶² See *Use of Market Economy Input Prices in Nonmarket Economy Proceedings*, 78 FR 46799 (August 2, 2013) (*ME Inputs Final Rule*).

subsidized, are not *bona fide*, or are otherwise not acceptable for use in a dumping calculation, Commerce will exclude them from the numerator of the ratio to ensure a fair determination of whether valid ME purchases meet the 85 percent threshold.¹⁶³ Commerce addresses Jinlong's reported ME purchases of inputs during the POR that were paid for in ME currency in the Jinlong Preliminary Calculation Memorandum.

a. Direct and Packing Materials

The record indicates that import statistics from the primary surrogate country, Romania, which are available through the *Global Trade Atlas*, are generally contemporaneous with the POR, publicly available, product-specific, tax- and duty-exclusive, and representative of a broad-market average.¹⁶⁴ Thus, we based SVs for Jinlong's, Guyu's, and Muchsee Wood's direct materials and packing materials on these import values, except where noted below.¹⁶⁵

Pursuant to section 773(c)(5) of the Act and Commerce's long-standing practice, Commerce disregards SVs if it has a reason to believe or suspect the source data may be comprised of subsidized prices. In this regard, Commerce has previously found that it is appropriate to disregard such prices from India, Indonesia, South Korea, and Thailand because we have determined that these countries maintain broadly available, non-industry specific export subsidies.¹⁶⁶ Based on the existence of the subsidy programs that were generally available to all exporters and producers in these countries at the time of the POR, we find that it is reasonable to infer that all exporters from India, Indonesia, South Korea, and Thailand may have benefitted from these subsidies. Therefore, we have not used prices from those countries in calculating the Romanian import-based SVs.

Additionally, consistent with our practice, Commerce disregarded data from NME countries when calculating Romanian import-based per-unit SVs.¹⁶⁷ Commerce also excluded from the calculation of Romanian import-based per-unit SVs imports labeled as originating from an "unidentified" country because Commerce could not be certain that these imports were not from either an NME country or a country with generally available export subsidies.¹⁶⁸

¹⁶³ *Id.*

¹⁶⁴ See Preliminary SV Memorandum.

¹⁶⁵ *Id.*

¹⁶⁶ See, e.g., *Certain Frozen Warmwater Shrimp from India: Final Results of Antidumping Duty Administrative Review and Final No Shipment Determination; 2011-2012*, 78 FR 42492 (July 16, 2013), and accompanying IDM at 7-19; *Certain Lined Paper Products from Indonesia: Final Results of the Expedited Sunset Review of the Countervailing Duty Order*, 76 FR 73592 (November 29, 2011), and accompanying IDM at 1; *Cut-to-Length Carbon-Quality Steel Plate from the Republic of Korea: Final Results of Countervailing Duty Administrative Review; 2012*, 79 FR 46770 (August 11, 2014), and accompanying IDM at 4; and *Certain Frozen Warmwater Shrimp from Thailand: Final Negative Countervailing Duty Determination*, 78 FR 50379 (August 19, 2013), and accompanying IDM at IV.

¹⁶⁷ See *Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Chlorinated Isocyanurates from the People's Republic of China*, 69 FR 75294, 75301 (December 16, 2004), unchanged in *Notice of Final Determination of Sales at Less Than Fair Value: Chlorinated Isocyanurates from the People's Republic of China*, 70 FR 24502 (May 10, 2005).

¹⁶⁸ *Id.* Additional countries excluded are: Belarus, China, Georgia, India, Indonesia, Moldova, South Korea, Thailand, Turkmenistan, and Vietnam.

As appropriate, we added surrogate inland freight costs to import values used as SVs. We calculated freight SVs using the shorter of the reported distance from the domestic supplier to the factory that produced the subject merchandise or the distance from the nearest port to the factory that produced the subject merchandise, where appropriate. This adjustment is in accordance with the CAFC's decision in *Sigma Corp.*¹⁶⁹ We valued truck freight expenses using average truck rates from the World Bank's report, *Doing Business 2019: Romania (Doing Business)*.¹⁷⁰ This World Bank report gathers information concerning the distance and cost to transport a containerized shipment weighing 15 metric tons from the peri-urban area of the economy's largest business city to the country's major port. We did not inflate or deflate this SV because it is contemporaneous with the POR.¹⁷¹

b. Labor

In NME AD proceedings, Commerce prefers to value labor solely based on data from the primary surrogate country.¹⁷² In *Labor Methodologies*, Commerce determined that the best methodology to value the labor input is to use industry-specific labor rates from the primary surrogate country. Additionally, Commerce determined that Chapter 6A: Labor Cost in Manufacturing, from the International Labor Organization (ILO) Yearbook of Labor (*i.e.*, wages, benefits, housing, training, etc.) is the preferred source where another source is not more appropriate.¹⁷³

However, for these preliminary results, Commerce valued the labor input using data from the National Institute of Statistics of Romania data for the POR.¹⁷⁴ Although the National Institute of Statistics data are not from the ILO, we find that this fact does not preclude us from using this source for valuing labor. In *Labor Methodologies*, we decided to change to the use of ILO Chapter 6A from the use of ILO Chapter 5B data, on the rebuttable presumption that Chapter 6A data better account for all direct and indirect labor costs.¹⁷⁵ We did not, however, preclude all other sources for evaluating labor costs in NME AD proceedings. Consistent with section 773(c)(1) of the Act, we continue to follow our practice of selecting the "best available information" to determine SVs for inputs, such as labor.¹⁷⁶ In this case, we find that the National Institute of Statistics of Romania data for the POR are the best available information for valuing labor because the data are contemporaneous with the POR, industry-specific, and reflect all costs related to labor, including wages, benefits, housing, and training.

¹⁶⁹ See *Sigma Corp. v. United States*, 117 F.3d 1401, 1407-08 (Fed. Cir. 1997) (*Sigma Corp.*).

¹⁷⁰ See Preliminary SV Memorandum.

¹⁷¹ *Id.*

¹⁷² See *Antidumping Methodologies in Proceedings Involving Non-Market Economies: Valuing the Factor of Production: Labor*, 76 FR 36092 (June 21, 2011) (*Labor Methodologies*).

¹⁷³ *Id.*

¹⁷⁴ See Muchsee Wood NSR SV Comments, Jinlong AR SV Comments, and Guyu AR SV Comments; see also Preliminary SV Memorandum.

¹⁷⁵ See *Labor Methodologies*.

¹⁷⁶ See, e.g., *Xanthan Gum*, and accompanying IDM at Comment 6-C; and *Drawn Stainless Steel Sinks from the People's Republic of China: Investigation, Final Determination*, 78 FR 13019 (February 26, 2013), and accompanying IDM at Comment 3.

c. Financial Ratios

Commerce's criteria for choosing surrogate financial statements from which we derive the financial ratios are the availability of contemporaneous financial statements, their comparability to the respondent's experience, and whether they are publicly available.¹⁷⁷ Moreover, to value factory overhead, selling, general, and administrative (SG&A) expenses and profit, Commerce normally will use non-proprietary information gathered from producers of identical or comparable merchandise in the surrogate country.¹⁷⁸ In addition, the CIT has held that in the selection of surrogate producers, Commerce may consider how closely the surrogate producers approximate the NME producer's experience.¹⁷⁹

With respect to financial statements, the record contains one set of financial statements for Romanian producer, SC Sigstrat SA (Sigstrat), for the fiscal year ending December 31, 2018. As noted above, Commerce's preference is to value all FOPs in a single surrogate country pursuant to 19 CFR 351.408(c)(2). Accordingly, because we have a useable financial statement from the primary surrogate country, Romania, we have preliminarily used Sigstrat's financial statement to calculate the surrogate financial ratios.¹⁸⁰

d. By-Products

Commerce's practice is to grant the respondents an offset to the reported FOPs for by-products generated during the production of the subject merchandise if evidence is provided that such by-product has commercial value.¹⁸¹ Also, for waste or by-products sold to unaffiliated parties, it is Commerce's practice to offset NV costs with the sales revenue of the waste or by-product.¹⁸² Guyu reported two by-products generated in the production of subject merchandise.¹⁸³ Commerce's practice, as reflected in Commerce's antidumping questionnaire issued to Guyu, is to grant by-product offsets "for merchandise that is either sold or reintroduced into production during the POR, up to the amount of that byproduct/co-product actually produced during the POR."¹⁸⁴ Thus, to be eligible for an offset, a respondent must provide and substantiate the quantity of by-product it generated from the production of subject merchandise

¹⁷⁷ See, e.g., *Notice of Final Determination of Sales at Less Than Fair Value: Chlorinated Isocyanurates from the People's Republic of China*, 70 FR 24502 (May 10, 2005), and accompanying IDM at Comment 3.

¹⁷⁸ See *Diamond Sawblades* and accompanying IDM at Comment 2; section 773(c)(4) of the Act; and 19 CFR 351.408(c)(4).

¹⁷⁹ See *Rhodia, Inc. v. United States*, 240 F. Supp. 2d 1247, 1253-54 (CIT 2002); see, also, *Persulfates from the People's Republic of China: Final Results of Antidumping Duty Administrative Review*, 70 FR 6836 (February 9, 2005) and accompanying IDM at Comment 1.

¹⁸⁰ See Preliminary SV Memorandum.

¹⁸¹ See *Heavy Forged Hand Tools, Finished or Unfinished, With or Without Handles, from the People's Republic of China: Final Results of Antidumping Duty Administrative Reviews and Final Rescission and Partial Rescission of Antidumping Duty Administrative Reviews*, 70 FR 54897 (September 19, 2005), and accompanying IDM at Scrap Offset.

¹⁸² *Id.*

¹⁸³ See Guyu July 10, 2019, Section D Questionnaire Response and Preliminary SV Memorandum.

¹⁸⁴ See, e.g., Guyu AD Questionnaire.

during the POR, as well as demonstrate that the by-product has commercial value.¹⁸⁵ Guyu provided production records demonstrating it recovered quantities of the by-products and that it later sold these recovered quantities.¹⁸⁶ Therefore, Commerce made an appropriate offset to NV for these by-products.

J. Adjustment Under Section 777A(f) of the Act

In applying section 777A(f) of the Act in this administrative review, Commerce examines: (1) whether a countervailable subsidy (other than an export subsidy) has been provided with respect to a class or kind of merchandise, (2) whether such countervailable subsidy has been demonstrated to have reduced the average price of imports of the class or kind of merchandise during the relevant period, and (3) whether Commerce can reasonably estimate the extent to which that countervailable subsidy, in combination with the use of NV determined pursuant to section 773(c) of the Act, has increased the weighted-average dumping margin for the class or kind of merchandise. For a subsidy meeting these criteria, the statute requires Commerce to reduce the AD duty by the estimated amount of the increase in the weighted-average dumping margin subject to a specified cap. In conducting this analysis, Commerce has not concluded that concurrent application of NME ADs and CVDs necessarily and automatically results in overlapping remedies. Rather, a finding that there is an overlap in remedies, and any resulting adjustment, is based on a case-by-case analysis of the totality of facts on the administrative record for that segment of the proceeding as required by the statute.

In order to examine the effects of concurrent countervailable subsidies in calculating antidumping margins for respondents in this review, Commerce requested that Jinlong, Guyu, and Muchsee Wood submit information with respect to subsidies relevant to its eligibility for an adjustment to the calculated weighted-average dumping margin.¹⁸⁷ Commerce examined whether each company demonstrated: (1) a subsidies-to-cost link, *e.g.*, subsidy impact on cost of manufacture; and (2) a cost-to-price link, *e.g.*, respondent's prices changed as a result of changes in the cost of manufacture.

1. Jinlong

Jinlong identified six programs that might apply during this POR.¹⁸⁸ However, Jinlong did not demonstrate that the subsidies received resulted in a change to its cost of manufacturing during the relevant period. Therefore, the subsidies-to-cost linkage was not satisfied. Additionally, because Jinlong did not identify a subsidies-to-cost link, it also did not identify a cost-to-price linkage, as no price fluctuations were tied directly to the change in cost associated with the subsidy identified in the relevant period. Accordingly, we made no adjustment for double remedies to Jinlong's margin for the preliminary results.

¹⁸⁵ See *Narrow Woven Ribbons With Woven Selvedge from the People's Republic of China: Final Determination of Sales at Less Than Fair Value*, 75 FR 41808 (July 19, 2010), and accompanying IDM at Comment 2.

¹⁸⁶ See Preliminary SV Memorandum.

¹⁸⁷ See Commerce Letters, "Double Remedies Supplemental Questionnaire for Jinlong, Guyu, and Muchsee Wood," all dated December 10, 2019.

¹⁸⁸ See Jinlong December 20, 2019, Double Remedies Supplemental Questionnaire Response.

2. Guyu

Guyu identified four programs that might apply during this POR.¹⁸⁹ However, Guyu failed to demonstrate that the subsidies received resulted in a change to its cost of manufacturing during the relevant period. Therefore, the subsidies-to-cost linkage was not satisfied. Additionally, because Guyu failed to identify a subsidies-to-cost link, it also failed to identify a cost-to-price linkage, as no price fluctuations were tied directly to the change in cost associated with the subsidy identified in the relevant period. Accordingly, we made no adjustment for double remedies to Guyu’s margin for the preliminary results.

3. Muchsee Wood

Muchsee Wood declined to respond to Commerce’s December 10, 2019, Double Remedies Supplemental Questionnaire.¹⁹⁰ Accordingly, we made no adjustment for double remedies to Muchsee Wood’s margin for the preliminary results.

K. Currency Conversion

Where necessary, Commerce made currency conversions into U.S. dollars, in accordance with section 773A(a) of the Act, based on the exchange rates, as certified by the Federal Reserve Bank, in effect on the date of the U.S. sale.

X. RECOMMENDATION

We recommend applying the above methodology for these preliminary results.

Agree

Disagree

1/31/2020

X



Signed by: CHRISTIAN MARSH

Christian Marsh
Deputy Assistant Secretary
for Enforcement and Compliance

¹⁸⁹ See Guyu December 30, 2019, Double Remedies Supplemental Questionnaire Response.

¹⁹⁰ See Muchsee Wood’s Letter, “Multilayered Wood Flooring from the People’s Republic of China: Statement in Lieu of Double Remedies Questionnaire Response,” dated December 18, 2019.

APPENDIX

Separate Rate Companies
A&W (Shanghai) Woods Co., Ltd.
Anhui Longhua Bamboo Product Co., Ltd.
Benxi Wood Company
Dalian Dajen Wood Co., Ltd.
Dalian Deerfu Wooden Product Co., Ltd.
Dalian Jiahong Wood Industry Co., Ltd.
Dalian Kemian Wood Industry Co., Ltd.
Dalian Penghong Floor Products Co., Ltd.
Dalian Shengyu Science And Technology Development Co., Ltd.
Dalian Shumaike Floor Manufacturing Co., Ltd.
Dalian T-Boom Wood Products Co., Ltd.
Dongtai Fuan Universal Dynamics, LLC
Dunhua City Dexin Wood Industry Co., Ltd.
Dunhua City Hongyuan Wood Industry Co., Ltd.
Dunhua City Wanrong Wood Industry Co., Ltd.
Dun Hua Sen Tai Wood Co., Ltd.
Dunhua Shengda Wood Industry Co., Ltd
Guangzhou Panyu Southern Star Co., Ltd.
HaiLin LinJing Wooden Products, Ltd.
Hangzhou Hanje Tec Company Limited
Hunchun Xingjia Wooden Flooring Inc.
Huzhou Chenghang Wood Co., Ltd
Huzhou Fulinmen Imp. & Exp. Co., Ltd.
Huzhou Sunergy World Trade Co., Ltd.
Jiangsu Keri Wood Co., Ltd.
Jiangsu Mingle Flooring Co., Ltd
Jiangsu Senmao Bamboo and Wood Industry Co., Ltd.
Jiangsu Simba Flooring Co., Ltd.
Jiashan HuiJiaLe Decoration Material Co., Ltd.
Jiaxing Hengtong Wood Co., Ltd.
Jilin Xinyuan Wooden Industry Co., Ltd.
Karly Wood Product Limited

Kember Flooring, Inc.
Kemian Wood Industry (Kunshan) Co., Ltd.
Lauzon Distinctive Hardwood Flooring, Inc.
Linyi Youyou Wood Co., Ltd.
Metropolitan Hardwood Floors, Inc.
Mudanjiang Bosen Wood Industry Co., Ltd.
Nakahiro Jyou Sei Furniture (Dalian) Co., Ltd.
Omni Arbor Solutions Co., Ltd.
Pinge Timber Manufacturing (Zhejiang) Co., Ltd.
Power Dekor Group Co., Ltd.
Scholar Home (Shanghai) New Material Co., Ltd.
Shenyang Haobainian Wooden Co., Ltd.
Sino-Maple (Jiangsu) Co., Ltd.
Suzhou Dongda Wood Co., Ltd.
Tongxiang Jisheng Import and Export Co., Ltd.
Xuzhou Shenghe Wood Co., Ltd.
Yekalon Industry Inc.
Yihua Lifestyle Technology Co., Ltd., (successor-in-interest to Guangdong Yihua Timber Industry Co., Ltd.)
Zhejiang Dadongwu Green Home Wood Co., Ltd.
Zhejiang Fuerjia Wooden Co., Ltd
Zhejiang Longsen Lumbering Co., Ltd.
Zhejiang Shiyou Timber Co., Ltd.

No Shipments
Anhui Yaolong Bamboo & Wood Products Co. Ltd.
Armstrong Wood Products (Kunshan) Co., Ltd.
Baroque Timber Industries (Zhongshan) Co., Ltd.
Benxi Flooring Factory (General Partnership)
Changzhou Hawd Flooring Co., Ltd.
Dunhua City Jisen Wood Industry Co., Ltd.
Fine Furniture (Fine Furniture (Shanghai) Limited and Double F Limited)
Guangzhou Panyu Kangda Board Co., Ltd.
Hangzhou Zhengtian Industrial Co., Ltd.
Hunchun Forest Wolf Wooden Industry Co., Ltd.
Huzhou Jesonwood Co., Ltd.

Innomaster Home (Zhongshan) Co., Ltd.
Jiangsu Yuhui International Trade Co., Ltd.
Jiashan On-Line Lumber Co., Ltd.
Kingman Floors Co., Ltd.
Linyi Anying Wood Co., Ltd.
Shandong Longteng Wood Co., Ltd.
Shanghaifloor Timber (Shanghai) Co., Ltd.
Xuzhou Antop International Trade Co., Ltd.
Yingyi-Nature (Kunshan) Wood Industry Co., Ltd.
Zhejiang Shuimojiangnan New Material Technology Co., Ltd.

China-Wide Entities
Anhui Boya Bamboo & Wood Products Co., Ltd.
Chinafloors Timber (China) Co., Ltd.
Dalian Guhua Wooden Product Co., Ltd.
Dalian Huade Wood Product Co., Ltd.
Dalian Huilong Wooden Products Co., Ltd.
Dalian Jaenmaken Wood Industry Co., Ltd.
Guangzhou Homebon Timber Manufacturing Co., Ltd.
Houzhou Chenchang Wood Co., Ltd.
Jiafeng Wood (Suzhou) Co., Ltd.
Linyi Bonn Flooring Manufacturing Co., Ltd.
Power Dekor North America Inc.
Shanghai Lairunde Wood Co., Ltd.
Shenzhenshi Huanwei Woods Co., Ltd.
Xiamen Yung De Ornament Co., Ltd.
Zhejiang Biyork Wood Co., Ltd.
Zhejiang Fudeli Timber Industry Co., Ltd.
Zhejiang Jiechen Wood Industry Co., Ltd.
Zhejiang Simite Wooden Co., Ltd.